

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: **06/15/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Keckhaver**

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

Drafter: **shoveme**

May Contact:

Addl. Drafters:

Subject: **Munis - tax incrmntal financing**

Extra Copies:

Submit via email: **NO**

Requester's email:

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**Pre Topic:**

SDC:.....Keckhaver - CN1096,

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**Topic:**

Implement the recommendations of the DOR tax incremental financing task force

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**Instructions:**

See Attached. See LRB -3399/P2, and d-note from /P1.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 06/17/2001	gilfokm 06/18/2001		_____			
/P1			jfrantze 06/18/2001	_____	lrb_docadmin 06/18/2001		
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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	06/18/2001	06/18/2001	06/19/2001	_____	06/19/2001		

FE Sent For:

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/?	shoveme 06/17/2001	gilfokm 06/18/2001					
/P1		1- <sup>g</sup> 18/mg	jfrantze 06/18/2001	<i>6/19</i> <i>SEF</i>	lrb_docadmin 06/18/2001		

*11 MES 6/18/01/19 pg*

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**<END>**

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See Attached. See LRB -3399/P2, and d-note from /P1.

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1?	shoveme	1/1 - 6/17/01	6/18	6/18	Submit		

IP1 MES 6/17/01

FE Sent For:

<END>

Adopt the provisions of LRB-3399/P1, implementing the recommendations of the DOR TIF task force.

all LRB -3399/P2

CN1096



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb0820/P1  
MES...:.....

*King, CJS*

*RMNR*

SDC:.....keckhaver – CN1096, Implement the recommendations of the DOR  
= tax incremental financing task force

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ~~LRB~~ AMENDMENT *senate*

*to 53A1*

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

*D-note*

*substitute amendment*

1 At the locations indicated, amend the ~~bill~~ as follows:

2 ✓ 1. Page 669, line 17: after that line insert:

3 ~~(END)~~



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to repeal* 66.1105 (6) (e) 2.; *to renumber and amend* 66.1105 (6) (a) and  
2 66.1105 (6) (am) 1.; *to amend* 66.1105 (2) (f) 3., 66.1105 (2) (i), 66.1105 (2) (j),  
3 66.1105 (4) (gm) 1., 66.1105 (4) (gm) 4. c., 66.1105 (4) (h) 2., 66.1105 (4m) (a),  
4 66.1105 (4m) (b) 2., 66.1105 (4m) (b) 2m., 66.1105 (5) (a), 66.1105 (5) (b), 66.1105  
5 (5) (c), 66.1105 (5) (ce), 66.1105 (5) (d) and 66.1105 (8) (title); *to create* 60.23  
6 (32), 66.1105 (2) (f) 2. d., 66.1105 (3) (g), 66.1105 (4) (gm) 6., 66.1105 (4m) (am),  
7 66.1105 (4m) (b) 4., 66.1105 (4m) (b) 5., 66.1105 (4m) (d), 66.1105 (6) (a) 5.,  
8 66.1105 (6) (a) 6., 66.1105 (6) (am) 1. c., 66.1105 (6) (e) 1. d., 66.1105 (7) (ae),  
9 66.1105 (8) (c), 66.1105 (8) (d), 66.1105 (15) and 73.03 (56) of the statutes; and  
10 *to affect* Laws of 1975, chapter 105, section 1 (1) and (2); *relating to:* making  
11 technical and policy changes in the tax incremental financing program based  
12 on the recommendations of the governor's working group on tax incremental  
13 finance.

*Analysis by the Legislative Reference Bureau*

To be provided in a future version of the draft.



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

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

1       "       SECTION <sup>20035</sup> 1. 60.23 (32) of the statutes is created to read:

2           60.23 (32) TOWN TAX INCREMENT POWERS. If the town is located in a county which  
3       does not have any cities or villages, exercise all powers of cities under s. 66.1105. If  
4       the town board exercises the powers of a city under s. 66.1105, it is subject to the same  
5       duties as a common council under s. 66.1105 and the town is subject to the same  
6       duties and liabilities as a city under s. 66.1105. "

✓ #. page 682, line 22: after that line insert:  
" SECTION <sup>20295a</sup> 1. 66.1105 (2) (f) 2. d. of the statutes is created to read:

8           66.1105 (2) (f) 2. d. Capital costs, as described in subd. 1. a., the expenditures  
9       for which are from an escrow account of funds for such expenses that are expended  
10       after the deadline for expenditures under sub. (6) (am) 1.

\*\*\*\*NOTE: This subdivision paragraph attempts to execute your instruction # 5 "Infrastructure costs: timeframes" under "policy" proposals on page 14 of your memo. I don't believe that this statute is needed, however, because no city or village has the authority, under current law, to make such expenditures after the time periods described in s. 66.1105 (6) (am) 1. Unless you can demonstrate to me why this statute is necessary and how it prevents something that is allowable under current law, I will delete it from the next version of the bill.

11       SECTION <sup>20295b</sup> 2. 66.1105 (2) (f) 3. of the statutes is amended to read:

12           66.1105 (2) (f) 3. Notwithstanding subd. 1., project costs may not include any  
13       expenditures made or estimated to be made or monetary obligations incurred or  
14       estimated to be incurred by the city for newly platted residential development for any  
15       tax incremental district for which a project plan is approved after September 30,  
16       1995, or for which an amendment of a project plan is approved after the effective date  
17       of this subdivision .... [revisor inserts date].

18       SECTION <sup>20295c</sup> 3. 66.1105 (2) (i) of the statutes is amended to read:

1           66.1105 (2) (i) "Tax increment" means that amount obtained by multiplying the  
2 total county, city, school and other local general property taxes levied on all taxable  
3 property within a tax incremental district in a year by a fraction having as a  
4 numerator the value increment for that year in the district and as a denominator that  
5 year's equalized value of all taxable property in the district. In any year, a tax  
6 increment is "positive" if the value increment is positive; it is "negative" if the value  
7 increment is negative. With regard to a tax incremental district that has been  
8 declared an industrial district under sub. (4) (gm) 6., the calculation under this  
9 paragraph may not include the value of any residential property and may not include  
10 the value of any improved property on which more than 35% of the improved square  
11 footage is devoted to retail operations, including any storage areas or warehouses  
12 that contain merchandise that could be sold on-site at retail as part of an on-site  
13 retail operation.

\*\*\*\*NOTE: The language in amended s. 66.1105 (2) (i) and (j) is based on your instruction # 15 under "policy" proposals, but the language seems to be somewhat vague. For example, I'm not sure what it means for a warehouse to "harbor" merchandise. I did not include DOR's staff's suggestion related to s. 70.995 (1) (a) because that suggestion did not make it into the actual "Resolved." section of instruction # 15. Is this OK?

14           SECTION <sup>2029sd</sup> 66.1105 (2) (j) of the statutes is amended to read:

15           66.1105 (2) (j) "Tax incremental base" means the aggregate value, as equalized  
16 by the department of revenue, of all taxable property located within a tax  
17 incremental district on the date as of which the district is created, determined as  
18 provided in sub. (5) (b). The base of districts created before October 1, 1980, does not  
19 include the value of property exempted under s. 70.111 (17). With regard to a tax  
20 incremental district that has been declared an industrial district under sub. (4) (gm)  
21 6., the calculation under this paragraph may not include the value of any residential  
22 property and may not include the value of any improved property on which more than

1 35% of the improved square footage is devoted to retail operations, including any  
2 storage areas or warehouses that contain merchandise that could be sold on-site at  
3 retail as part of an on-site retail operation.

4 SECTION ~~4~~ <sup>2029se</sup> 66.1105 (3) (g) of the statutes is created to read:

5 66.1105 (3) (g) Create a standing joint review board that may remain in  
6 existence for the entire time that any tax incremental district exists in the city. All  
7 of the provisions that apply to a joint review board that is convened under sub. (4m)  
8 (a) apply to a standing joint review board that is created under this paragraph. A  
9 city may disband a joint review board that is created under this paragraph at any  
10 time.

\*\*\*\*NOTE: Instruction # 26 under the "policy" proposals did not specify whether a  
city could disband a standing joint review board. Is the last sentence in sub. (3) (g) OK?

11 SECTION ~~4~~ <sup>2029sf</sup> 66.1105 (4) (gm) 1. of the statutes is amended to read:

12 66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the  
13 same as those recommended by the planning commission, of a tax incremental  
14 district with sufficient definiteness to identify with ordinary and reasonable  
15 certainty the territory included in the district. The boundaries of the tax incremental  
16 district may not include any territory that was not within the boundaries of the city  
17 on January 1, 2000, unless 3 years have elapsed since the territory was annexed by  
18 the city or unless the city enters into a cooperative plan boundary agreement, under  
19 s. 66.0307, with the town from which the territory was annexed. If the city enters  
20 into a cooperative plan boundary agreement under s. 66.0307 with the town, the city  
21 may compensate the town for tax revenues lost by the town as a result of annexation.  
22 The boundaries shall include only those whole units of property as are assessed for  
23 general property tax purposes. Property standing vacant for an entire 7-year period

1 immediately preceding adoption of the resolution creating a tax incremental district  
 2 may not comprise more than 25% of the area in the tax incremental district, unless  
 3 the tax incremental district is suitable for industrial sites under subd. 4. a. and the  
 4 local legislative body implements an approved project plan to promote industrial  
 5 development within the meaning of s. 66.1101. In this subdivision, "vacant property"  
 6 includes property where the fair market value or replacement cost value of structural  
 7 improvements on the parcel is less than the fair market value of the land. In this  
 8 subdivision, "vacant property" does not include property acquired by the local  
 9 legislative body under ch. 32 or property included within the abandoned Park East  
 10 freeway corridor or the abandoned Park West freeway corridor in Milwaukee County.

\*\*\*\*NOTE: I believe that the amendment of s. 66.1105 (4) (gm) 1. achieves most of the intent of the first instruction under "policy" proposal # 12, "Restrictions on *greenfield* TIDs," but I have no idea what the instructions mean when they refer to "a border agreement" and "a boundary agreement." Is the cross reference to s. 66.0307 what you had in mind? If not, please let me know what kind of "border agreement" or "boundary agreement" you are thinking of.

11 SECTION ~~66.1105~~ <sup>202959-59</sup> (4) (gm) 4. c. of the statutes is amended to read:

12 66.1105 (4) (gm) 4. c. Either the equalized value of taxable property of the  
 13 district plus all existing districts does not exceed 7% of the total equalized value of  
 14 taxable property within the city or the equalized value of taxable property of the  
 15 district plus the value increment of all existing districts within the city does not  
 16 exceed 5% of the total equalized value of taxable property within the city. The  
 17 calculations required under this subd. 4. c. shall be based on the most recent values  
 18 of taxable property of the district that are certified by the department of revenue as  
 19 of the year in which a resolution is adopted under this paragraph.

20 SECTION ~~66.1105~~ <sup>20295h</sup> (4) (gm) 6. of the statutes is created to read:

21 66.1105 (4) (gm) 6. Declares that the district is a blighted area district, a  
 22 rehabilitation or conservation district, or an industrial district, based on the

1 identification and classification of the property included within the district under  
2 par. (c) and subd. 4. a. If the district is not exclusively blighted, rehabilitation or  
3 conservation, or industrial, the declaration under this subdivision shall be based on  
4 which classification is predominant with regard to the area described in subd. 4. a.

5 SECTION ~~19~~ <sup>2029st</sup> 66.1105 (4) (h) 2. of the statutes is amended to read:

6 66.1105 (4) (h) 2. Except as provided in subds. 3. and 4., not more than once  
7 during the 10 years after the creation of a tax incremental district that was created  
8 before October 1, 1995 or 7 years after the date on which any other tax incremental  
9 district is created, the planning commission may adopt an amendment to a project  
10 plan under subd. 1. to modify the district's boundaries by subtracting territory from  
11 the district or by adding territory to the district that is contiguous to the district and  
12 that is served by public works or improvements that were created as part of the  
13 district's project plan. Expenditures for project costs that are incurred because of an  
14 amendment to a project plan to which this subdivision applies may be made for not  
15 more than 3 years after the date on which the local legislative body adopts a  
16 resolution amending the project plan.

\*\*\*\*NOTE: I believe that this amendment of s. 66.1105 (4) (h) 2. addresses your instruction # 19 under "policy" proposals, but I'm not sure what the first part of the instruction means when it says that the 10 year amendment period "is to apply only to those TIDS . . . [that] have identical overlying taxing jurisdictions." Identical to what? Consequently, I did not address this instruction in the amendment of sub. (4) (h) 2.

17 SECTION ~~19~~ <sup>2029st SJ</sup> 66.1105 (4m) (a) of the statutes is amended to read:

18 66.1105 (4m) (a) Any city that seeks to create a tax incremental district or  
19 amend a project plan shall convene a temporary joint review board under this  
20 paragraph, or a standing joint review board under sub. (3) (g), to review the proposal.  
21 The Except as provided in par. (am), the board shall consist of one representative  
22 chosen by the school district that has power to levy taxes on the property within the

1 tax incremental district, one representative chosen by the technical college district  
2 that has power to levy taxes on the property within the tax incremental district, one  
3 representative chosen by the county that has power to levy taxes on the property  
4 within the tax incremental district, one representative chosen by the city and one  
5 public member. If more than one school district, more than one union high school  
6 district, more than one elementary school district, more than one technical college  
7 district or more than one county has the power to levy taxes on the property within  
8 the tax incremental district, the unit in which is located property of the tax  
9 incremental district that has the greatest value shall choose that representative to  
10 the board. The public member and the board's chairperson shall be selected by a  
11 majority of the other board members before the public hearing under sub. (4) (a) or  
12 (h) 1. is held. All board members shall be appointed and the first board meeting held  
13 within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional  
14 meetings of the board shall be held upon the call of any member. The city that seeks  
15 to create the tax incremental district or to amend its project plan shall provide  
16 administrative support for the board. By majority vote, the board may disband  
17 following approval or rejection of the proposal, unless the board is a standing board  
18 that is created by the city under sub. (3) (g).

19 SECTION ~~11~~ <sup>2029SK</sup> 66.1105 (4m) (am) of the statutes is created to read:

20 66.1105 (4m) (am) If a city seeks to create a tax incremental district that is  
21 located in a union high school district, the seat that is described under par. (a) for the  
22 school board representative to the board shall be held by 2 representatives, each of  
23 whom has one-half of a vote. One representative shall be chosen by the union high  
24 school district that has the power to levy taxes on the property within the tax  
25 incremental district and one representative shall be chosen by the elementary school

1 district that has the power to levy taxes on the property within the tax incremental  
2 district.

3 SECTION ~~11~~ <sup>2029sl</sup> 66.1105 (4m) (b) 2. of the statutes is amended to read:

4 66.1105 (4m) (b) 2. Except as provided in subd. 2m. and subject to subd. 4., no  
5 tax incremental district may be created and no project plan may be amended unless  
6 the board approves the resolution adopted under sub. (4) (gm) or (h) 1. by a majority  
7 vote not less than ~~10 days nor more than 30~~ 14 days after receiving the resolution.  
8 The board may not approve the resolution under this subdivision unless the board's  
9 approval contains a positive assertion that, in its judgment, the development  
10 described in the documents the board has reviewed under subd. 1. would not occur  
11 without the creation of a tax incremental district.

12 SECTION ~~11~~ <sup>2029sm</sup> 66.1105 (4m) (b) 2m. of the statutes is amended to read:

13 66.1105 (4m) (b) 2m. The requirement under subd. 2. that a vote by the board  
14 take place not less than ~~10 days nor more than 30~~ 14 days after receiving a resolution  
15 does not apply to a resolution amending a project plan under sub. (4) (h) 1. if the  
16 resolution relates to a tax incremental district, the application for the  
17 redetermination of the tax incremental base of which was made in 1998, that is  
18 located in a village that was incorporated in 1912, has a population of at least 3,800  
19 and is located in a county with a population of at least 108,000.

\*\*\*\*NOTE: Does the the amendment of sub. (4m) (b) 2m., and the similar amendment in sub. (4m) (b) 2., achieve your intent? Instruction # 22 in the "policy" proposals refers to "the 30 day period between approval of a Project Plan by the City Plan Commission and approval by the City Council", but no such time period exists in s. 66.1105. The only time period of "not less than 10 days nor more than 30 days" is in s. 66.1105 (4m) (b) 2. and 2m.

20 SECTION ~~11~~ <sup>2029sh</sup> 66.1105 (4m) (b) 4. of the statutes is created to read:

21 66.1105 (4m) (b) 4. Not later than 5 working days after submitting its decision  
22 under subd. 3., any member of the board may request that the department of revenue

1 review any of the documents listed in subd. 1. to determine whether the information  
 2 submitted to the board complies with this section or whether any of the information  
 3 contains a factual inaccuracy. The request must be in writing and must specify which  
 4 particular fact or item the member believes is incomplete or inaccurate. Not later  
 5 than 5 working days after receiving a request that complies with the requirements  
 6 of this subdivision, the department of revenue shall investigate the issues raised in  
 7 the request and shall send its written response to the board. If the department of  
 8 revenue determines that the information in the proposal does not comply with this  
 9 section or contains a factual inaccuracy, the department shall return the proposal to  
 10 the board. The board shall request that the city resolve the problems in its proposal  
 11 and resubmit the proposal to the board. The board shall review the resubmitted  
 12 proposal and vote to approve or deny the proposal as specified in this paragraph.

\*\*\*\*NOTE: This subdivision is drafted a little differently than your instructions requested. The instructions said that the board shall correct any problems that are uncovered, but it is the *city's* proposal that contains the errors. I required the city to correct the errors and resubmit the proposal. See item # 4 in the drafter's note.

13 SECTION ~~15~~ <sup>202950</sup> 66.1105 (4m) (b) 5. of the statutes is created to read:

14 66.1105 (4m) (b) 5. The board shall notify prospectively the governing body of  
 15 every local governmental unit that is not represented on the board, and that has  
 16 power to levy taxes on the property within the tax incremental district, of meetings  
 17 of the board and of the agendas of each meeting for which notification is given.

\*\*\*\*NOTE: Does this subdivision meet your intent? I don't know how the joint review board could give prospective notice of its actions, however, so I did not execute this instruction.

18 SECTION ~~15~~ <sup>20295P</sup> 66.1105 (4m) (d) of the statutes is created to read:

19 66.1105 (4m) (d) During the 15th year of the tax incremental district's  
 20 existence, the board may recommend to the department of revenue that a tax  
 21 incremental district that is suitable for industrial sites under sub. (4) (gm) 4. a. be



1 allowed to remain in existence for up to 5 years after the date on which it would  
 2 otherwise be required to terminate, for a total of up to 10 years after the last  
 3 expenditure in the district's project plan is made, as described in sub. (7) (ae). The  
 4 board may make such a recommendation only if it reviews and reapproves the  
 5 findings under sub. (4) (gm) 4. c. and reapproves its decision under par. (c).

6 SECTION ~~18~~ <sup>2029sa</sup> 66.1105 (5) (a) of the statutes is amended to read:

7 66.1105 (5) (a) Upon Subject to sub. (8) (d), upon the creation of a tax  
 8 incremental district or upon adoption of any amendment subject to par. (c), its tax  
 9 incremental base shall be determined as soon as reasonably possible.

10 SECTION ~~19~~ <sup>2029sr</sup> 66.1105 (5) (b) of the statutes is amended to read:

11 66.1105 (5) (b) Upon application in writing by the city clerk, in a form  
 12 prescribed by the department of revenue, the department shall determine according  
 13 to its best judgment from all sources available to it the full aggregate value of the  
 14 taxable property and, except as provided in par. (bm), of the city-owned property in  
 15 the tax incremental district. The Subject to sub. (8) (d), the department shall certify  
 16 this aggregate valuation to the city clerk, and the aggregate valuation constitutes the  
 17 tax incremental base of the tax incremental district. The city clerk shall complete  
 18 these forms, including forms for the amendment of a project plan, and submit the  
 19 application or amendment forms on or before December 31 of the year the tax  
 20 incremental district is created, as defined in sub. (4) (gm) 2. or, in the case of an  
 21 amendment, on or before December 31 of the year in which the changes to the project

plan take effect.

SECTION ~~20~~ <sup>2029st</sup> 66.1105 (5) (c) of the statutes is amended to read:

66.1105 (5) (c) If the city adopts an amendment to the original project plan for  
 any district which includes additional project costs at least part of which will be

*Note 24  
 ed: 2029st  
 is in 33 another  
 amendment -  
 I didn't just  
 mist 25*

1 incurred after the period specified in sub. (6) (am) 1., the tax incremental base for the  
2 district shall be redetermined, if sub. (4) (h) 2., 3. or 4. applies to the amended project  
3 plan, by adding to the tax incremental base the value of the taxable property and the  
4 value of real property owned by the city, other than property described in par. (bm),  
5 that is added to the existing district under sub. (4) (h) 2., 3. or 4. or, if sub. (4) (h) 2.,  
6 3. or 4. does not apply to the amended project plan, under par. (b), as of the January  
7 1 next preceding the effective date of the amendment if the amendment becomes  
8 effective between January 2 and September 30, as of the next subsequent January  
9 1 if the amendment becomes effective between October 1 and December 31 and if the  
10 effective date of the amendment is January 1 of any year, the redetermination shall  
11 be made on that date. The tax incremental base as redetermined under this  
12 paragraph is effective for the purposes of this section only if it exceeds the original  
13 tax incremental base determined under par. (b).

14 SECTION ~~20~~ <sup>2029 SU</sup> 66.1105 (5) (ce) of the statutes is amended to read:

15 66.1105 (5) (ce) If the city adopts an amendment, to which sub. (4) (h) 2., 3. or  
16 4. applies, the tax incremental base for the district shall be redetermined, by adding  
17 to the tax incremental base the value of the taxable property and the value of real  
18 property owned by the city, other than property described in par. (bm), that is added  
19 to the existing district under sub. (4) (h) 2., 3. or 4., as of the January 1 next preceding  
20 the effective date of the amendment if the amendment becomes effective between  
21 January 2 and September 30, as of the next subsequent January 1 if the amendment  
22 becomes effective between October 1 and December 31 and if the effective date of the  
23 amendment is January 1 of any year, the redetermination shall be made on that date.  
24 The tax incremental base as redetermined under this paragraph is effective for the

1 purposes of this section only if it exceeds the original tax incremental base  
2 determined under par. (b).

3 SECTION ~~22~~ <sup>2029sv</sup> 66.1105 (5) (d) of the statutes is amended to read:

4 66.1105 (5) (d) The department of revenue may not certify the tax incremental  
5 base as provided in par. (b) until it determines that each of the procedures and  
6 documents required by sub. (4) (a), (b), (gm) or (h) and par. (b) has been timely  
7 completed and all notices required under sub. (4) (a), (b), (gm) or (h) timely given.  
8 The facts supporting any document adopted or action taken to comply with sub. (4)  
9 (a), (b), (gm) or (h) are not subject to review by the department of revenue under this  
10 paragraph, except that notwithstanding the general prohibition against the  
11 department's review of the facts supporting any document adopted or action taken  
12 to comply with sub. (4) (gm), the department may not certify the tax incremental base  
13 as provided in par. (b) until it reviews and approves of the findings that are described  
14 in sub. (4) (gm) 4. c.

15 SECTION ~~23~~ <sup>2029sv SW</sup> 66.1105 (6) (a) of the statutes is renumbered 66.1105 (6) (a) (intro.)

16 and amended to read:

17 66.1105 (6) (a) (intro.) If the joint review board approves the creation of the tax  
18 incremental district under sub. (4m), positive tax increments with respect to a tax  
19 incremental district are allocated to the city which created the district for each year  
20 commencing after the date when a project plan is adopted under sub. (4) (g). The  
21 department of revenue may not authorize allocation of tax increments until it  
22 determines from timely evidence submitted by the city that each of the procedures  
23 and documents required under sub. (4) (d) to (f) has been completed and all related  
24 notices given in a timely manner. The department of revenue may authorize  
25 allocation of tax increments for any tax incremental district only if the city clerk and

1 assessor annually submit to the department all required information on or before the  
2 2nd Monday in June. The facts supporting any document adopted or action taken  
3 to comply with sub. (4) (d) to (f) are not subject to review by the department of revenue  
4 under this paragraph. After the allocation of tax increments is authorized, the  
5 department of revenue shall annually authorize allocation of the tax increment to  
6 the city that created the district until the soonest of the following events:

7 1. The department of revenue receives a notice under sub. (8) and the notice  
8 has taken effect under sub. (8) (b), ~~27~~.

9 2. Twenty-seven years after the tax incremental district is created if the  
10 district is created before October 1, 1995, ~~38~~.

11 3. Thirty-eight years after the tax incremental district is created if the district  
12 is created before October 1, 1995, and the project plan is amended under sub. (4) (h)  
13 ~~3. or 23~~

14 4. Twenty-three years after the tax incremental district is created if the district  
15 is created after September 30, 1995, ~~whichever is sooner~~ and before the effective  
16 date of this subdivision .... [revisor inserts date].

17 SECTION ~~24~~ <sup>20295X</sup> 66.1105 (6) (a) 5. of the statutes is created to read:

18 66.1105 (6) (a) 5. Fifteen or 20 years, depending on the joint review board's  
19 recommendation under sub. (4m) (d) and the department of revenue's action  
20 described under sub. (7) (aè), after the tax incremental district is created if the  
21 district is created on or after the effective date of this subdivision .... [revisor inserts  
22 date], and if the district is suitable for industrial sites under sub. (4) (gm) 4. a.

\*\*\*NOTE: The amendment of s. 66.1105 (6) (a) and the creation of sub. (6) (a) 5. and  
6. is necessary because of your instruction to change the maximum life of an industrial  
TID to 15 or 20 years and because of the changes made in created sub. (6) (am) 1. c. See  
the second part of instruction # 12 in the "policy" proposals.

23 SECTION ~~25~~ <sup>20295Y</sup> 66.1105 (6) (a) 6. of the statutes is created to read:

1           66.1105 (6) (a) 6. Twenty-six years after the tax incremental district is created  
 2 if the district is created on or after the effective date of this subdivision .... [revisor  
 3 inserts date], and if the district, under sub. (4) (gm) 6., is a blighted area district or  
 4 a rehabilitation or conservation district.

5           ~~SECTION 27~~ <sup>2029 SZ</sup> 66.1105 (6) (am) 1. of the statutes is renumbered 66.1105 (6) (am)

6 1. a. and amended to read:

7           66.1105 (6) (am) 1. a. For a tax incremental district that is created after  
 8 September 30, 1995, and before the effective date of this subd. 1. a. .... [revisor inserts  
 9 date], no expenditure may be made later than 7 years after the tax incremental  
 10 district is created, ~~and for~~.

11           b. For a tax incremental district that is created before October 1, 1995, no  
 12 expenditure may be made later than 10 years after the tax incremental district is  
 13 created, except that, for a tax incremental district that is created before October 1,  
 14 1995, and which receives tax increments under par. (d), no expenditure may be made  
 15 later than 12 years after the tax incremental district is created.

16           ~~SECTION 27~~ <sup>2029 EAG</sup> 66.1105 (6) (am) 1. c. of the statutes is created to read:

17           66.1105 (6) (am) 1. c. For a tax incremental district that is created on or after  
 18 the effective date of this subd. 1. c. .... [revisor inserts date], all expenditures shall  
 19 be substantially completed no later than 10 years after the tax incremental district  
 20 is created, except that, with regard to a tax incremental district that has been  
 21 declared an industrial district under sub. (4) (gm) 6., no expenditure may be made  
 22 later than 10 years after the industrial tax incremental district is created.

\*\*\*\*NOTE: This subdivision paragraph is consistent with your intent in "policy" proposal # 5, but it seems a little vague, and I'm not sure that the phrase "substantially completed" works with the language in subs. (5) (c) and (6m) (b) 2. Subsections (5) (c) and (6m) (b) 2. require the redetermination of a TID's base if an amendment to the project plan includes costs which at least in part are incurred "after the period *specified* in sub. (6)

(am).” It seems to me that it sometimes may be hard to determine whether a TID’s base needs to be redetermined, or when it is “12 months after the end of a period specified in sub. (am) 1.” because a “period specified” connotes a definite period of time, rather than the more vague notion of whether something is “substantially” completed.

1 SECTION ~~29~~ <sup>2029tb</sup> 66.1105 (6) (c) 1. d. of the statutes is created to read:

2 66.1105 (6) (e) 1. d. The donor tax incremental district has in its special fund,  
3 as described under par. (c), sufficient revenues to pay for all project costs that have  
4 been incurred, or are expected to be incurred, under the project plan for that district.

5 SECTION ~~29~~ <sup>2029tc</sup> 66.1105 (6) (e) 2. of the statutes is repealed.

6 SECTION ~~30~~ <sup>2029td</sup> 66.1105 (7) (ae) of the statutes is created to read:

7 66.1105 (7) (ae) Notwithstanding par. (am), 5 years after the last expenditure  
8 identified in the project plan is made if the district to which the plan relates is created  
9 on or after the effective date of this paragraph .... [revisor inserts date], and if the  
10 district is suitable for industrial sites under sub. (4) (gm) 4. a., except that if the joint  
11 review board recommends under sub. (4m) (d) to the department of revenue that the  
12 district be allowed to continue in existence for up to an additional 5 years after the  
13 date on which the district would otherwise be required to terminate under this  
14 paragraph, and if the department of revenue agrees to the recommendation, such a  
15 district terminates up to 10 years after the last expenditure identified in the project  
16 plan is made.

\*\*\*\*NOTE: The creation of sub. (7) (ae) relates to the second instruction in item # 12 of the “policy” proposals. I chose a 5 year termination date because under the changes in sub. (6) (am) 1. c., a TID created on or after the effective date of the bill may make expenditures for 10 years after the TID is created.

17 SECTION ~~31~~ <sup>2029te</sup> 66.1105 (8) (title) of the statutes is amended to read:

18 66.1105 (8) (title) NOTICE OF DISTRICT TERMINATION, REPORTING REQUIREMENTS.

19 SECTION ~~32~~ <sup>2029tf</sup> 66.1105 (8) (c) of the statutes is created to read:

1           66.1105 (8) (c) Not later than 60 days after a city transmits to the department  
2 of revenue the notice required under par. (a) the city shall send to the department,  
3 on a form prepared by the department, all of the following information that relates  
4 to the terminated tax incremental district:

- 5           1. A final accounting of all expenditures made by the city.
- 6           2. The total amount of project costs incurred by the city.
- 7           3. The total amount of positive tax increments received by a city.

      \*\*\*\*NOTE: Does subd. 3. meet your intent? The instructions referred to "TIF  
revenues" and I'm not sure what that means. Also, your instructions did not specify any  
time limit for the submission of the form. Is 60 days OK?

8           SECTION ~~31~~<sup>2029tg</sup> 66.1105 (8) (d) of the statutes is created to read:

9           66.1105 (8) (d) If a city does not send to the department of revenue the form  
10 specified in par. (c) within the time limit specified in par. (c), the department may not  
11 certify the tax incremental base of a tax incremental district under sub. (5) (a) and  
12 (b) until the form is sent to the department.

13          SECTION ~~31~~<sup>2029th</sup> 66.1105 (15) of the statutes is created to read:

14          66.1105 (15) SUBSTANTIAL COMPLIANCE. Substantial compliance with subs. (3),  
15 (4) (a), (b), (c), (d), (e), and (f), and (4m) by a city or village that creates, or attempts  
16 to create, a tax incremental district is sufficient to give effect to any proceedings  
17 conducted under this section if, in the opinion of the department of revenue, any  
18 error, irregularity, or informality that exists in the city's or village's attempts to  
19 comply with subs. (3), (4) (a), (b), (c), (d), (e), and (f), and (4m) does not affect  
20 substantial justice. If the department of revenue determines that a city or village has  
21 substantially complied with subs. (3), (4) (a), (b), (c), (d), (e), and (f), and (4m), the  
22 department of revenue shall determine the tax incremental base of the district,  
23 allocate tax increments, and treat the district in all other respects as if the

1 requirements under subs. (3), (4) (a), (b), (c), (d), (e), and (f), and (4m) had been  
2 strictly complied with based on the date that the resolution described under sub. (4)

(3) #. Page 836, line 24: after that line insert:  
" (gm) 2. is adopted. "

SECTION ~~33.03~~ 73.03 (57) of the statutes is created to read:

(5) 73.03 (57) To create, and update, a manual on the tax incremental finance  
6 program under s. 66.1105. The manual shall contain the rules relating to the  
7 program, common problems faced by cities and villages under the program, possible  
8 side effects on the use of tax incremental financing, and any other information the  
9 department determines is appropriate. The department may consult with, and  
10 solicit the views of, any interested person while preparing or updating the manual.

✓ (10) #. Page 1281, line 6: after that line insert:

SECTION ~~33.03~~ Laws of 1975, chapter 105, section 1 (1) and (2) are amended to  
11 read:  
" 4034 r

[Laws of 1975, chapter 105] Section 1 (1) The legislature finds that the existing  
14 system of allocating aggregate property tax revenues among tax levying  
15 municipalities has resulted in significant inequities and disincentives. The cost of  
16 public works or improvements within a city or, village, or town that is located in a  
17 county that does not contain any cities or villages has been borne entirely by the city  
18 or, village, or town that is located in a county that does not contain any cities or  
19 villages, while the expansion of tax base which is stimulated, directly or indirectly,  
20 by such improvements, benefits not only the city or, village, or town that is located  
21 in a county that does not contain any cities or villages but also all municipalities  
22 which share such tax base. This situation is inequitable. Moreover, when the cost  
23 to a city or, village, or town that is located in a county that does not contain any cities  
24 or villages of a public improvement project exceeds the future benefit to the city or,  
25 village, or town that is located in a county that does not contain any cities or villages



1 resulting therefrom, the city or, village, or town that is located in a county that does  
2 not contain any cities or villages may decide not to undertake such project. This  
3 situation has resulted in the postponement or cancellation of socially desirable  
4 projects.

5 (2) The legislature further finds that accomplishment of the vital and beneficial  
6 public purposes of sections 66.405 to 66.425, 66.43, 66.431, 66.435 and 66.52 of the  
7 statutes, is being frustrated because of a lack of incentives and financial resources.  
8 The purpose of this act is to create a viable procedure by which a city or, village, or  
9 town that is located in a county that does not contain any cities or villages, through  
10 its own initiative and efforts, may finance projects which will tend to accomplish

11 these laudable objectives. "

✓ # page 1415, line 14; after ~~the~~ <sup>two</sup> line insert:  
12 ~~SECTION 37. Initial applicability.~~

13 " (1) ~~in~~ <sup>The treatment of</sup> This act first applies to a tax incremental district that is created, or whose  
14 project plan is amended, on the effective date of this subsection. ",  
*apply*

15 (Tax incremental financing (END)

CS → Task force recommendations.

D-note →

→ sections 60.23(32), 66.1105(2)(f) 2.d. and 3., (i) and (j),  
(3)(g), (4)(gm) 1., 4.c., and 6. <sup>and</sup> (h) 2. (4m) (a), (am),  
(b) 2., 2m., 4., and 5., and (d), (5)(a), (b), (c), (ce), and  
(d), (6)(a), (6)(a) 5. and 6., (am) 1., 4. and d.

✓ (6)(am) 1. d. and 2.)  
(7)(a) 2., (8)(title) (c) and (d), and (15), and  
of the statutes  
7 3.03(57) ~~is~~ and ~~the~~ (laws of 1975), chapter  
105, section 1(c) and (2)

the renumbering and amendment of section  
66.1105(6)(a) and (am) 1. of the statutes, and the creation  
of section 66.1105(6)(a) 5. and 6. and  
(am) 1. c. of the statutes

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

- 60820/Pldn  
LRB-3399/Pldn  
MES:tjs:Rjm

June 6, 2001

Kmg  
E  
i

amendment

John Keckhaver

Senator Chvala

This amendment based on LRB-3399/P2, which is

You have asked that I prepare a bill draft based on the technical and policy recommendations contained in the governor's working group on tax incremental finance for you to review for possible consideration as a budget amendment.

Please review this ~~draft~~ <sup>amendment</sup> very carefully to ~~ensure~~ <sup>ensure</sup> that it meets your intent. There are quite a few changes of time periods or deadlines in certain statutes, and some of these statutes are interrelated with, or contingent on, time periods or deadlines in other statutes. In addition, you may want the department of revenue to review the ~~draft~~ <sup>draft</sup>, especially the timing changes. I have done this ~~bill~~ <sup>bill</sup> as a preliminary draft because I have a number of questions and comments that ~~must~~ <sup>should</sup> be resolved before I can produce an ~~introducible~~ <sup>introducible</sup> version of the ~~bill~~ <sup>bill</sup>. Some of the questions or comments are contained in the text of the ~~bill~~ <sup>bill</sup> as "\*\*\*\*NOTES", and some are listed here.

1. As your instructions specified, the wording in created s. 66.1105 (15) is based on s. 62.71 (13), although I'm not sure what the legal effect is of the standard in ss. 62.71 (13) and 66.1105 (15), "not affecting substantial justice."
2. Problem # 2 in the "technical" proposals states, in part, that "territory amendments have no value limit restrictions." I don't think this is the case, so I did not execute the instruction to "amend the statutes to specify that territory amendments to TIDS will be subject to the value limit restrictions not required for new TIDS." Section 66.1105 (4) (h) 2., which allows the amendment of a project plan, refers back to 66.1105 (4) (h) 1., which requires the same findings as provided in par. (g), which requires the adoption of a resolution under s. 66.1105 (4) (gm). That resolution, in s. 66.1105 (4) (gm) 4. c., contains the value limits. Consequently, I believe that an amendment to a project plan is already subject to the value limit restrictions.
3. I believe that the amendment of s. 66.1105 (4m) (a) and the creation of par. (am) are consistent with your instructions, but I'm not sure that your instructions address all of the potential situations and I'm not sure how s. 66.1105 (4m) (a) works under current law. For example, how is representation on a joint review board to be handled if a proposed TID is partly in a school district and partly in a union high school district? Currently, how is representation on a joint review board handled if a proposed TID is in a union high school district and wholly in one of the underlying elementary districts? The property of the TID in such a case does not contain property that has a greater value in one of the two districts because all of the TID is in both districts.

2/11

4. Please review carefully created s. 66.1105 (4m) (b) 4.; the instructions for this item, "policy" proposal 2, the second item under "Resolved", are a little unclear to me. First, it seems unusual to allow a member to ask for DOR review after all the hearings and reviews have taken place, and after the city has been notified of the board's decision. Second, the instructions state that if DOR finds an error or ambiguity in a "TIF filing", DOR shall return the filing to the board for "correction and/or clarification." This last part of the instruction doesn't make sense to me. A member of the board has asked for a DOR review of the proposal submitted by a city. If DOR finds a problem, it's in the materials submitted by the *city*. Consequently, it doesn't make sense to me to require the *board* to "correct or clarify" the city's proposal. In created s. 66.1105 (4m) (b) 4., I required the city to correct the problem and resubmit the proposal, and the board to review the resubmitted proposal. Is this OK?
5. I increased from seven years to ten years the length of time during which expenditures may be made under s. 66.1105 (6) (am) 1. c. I couldn't tell from your instructions, however, whether you wanted to change the time after which a tax increment may not be allocated under s. 66.1105 (6) (a) or the time after which a TID must terminate under s. 66.1105 (7) (am). See s. 66.1105 (6) (a) 5. and 6. Is this OK, or did you want a change made in sub. (6) (a) or (7) (am)?
6. The creation of s. 60.23 (32) and the amendment of the Laws of 1975, chapter 105, section 1 (1) and (2) accomplishes the intent of your instruction # 17 in the "policy" proposals to allow towns that are located in counties with no cities or villages to use TIF, but I believe that should this provision become law, it could be challenged as a violation of article IV, section 23, of the Wisconsin Constitution. That provision states that "The legislature shall establish but one system of town government, which shall be as nearly uniform as practicable . . ." It could be argued that the proposal to allow TIF to be used only by towns in Menominee County and Florence County is inconsistent with the constitutional requirement that the legislature create "but one system of town government."
7. Instruction # 22 of the "policy" proposals states that "[c]urrent law requires a time lapse of 10 to 30 days from action on a proposed TID by the municipal planning body, and action by the municipal governing body," and requests that this time period be changed to "not less than 14 days." There is no statutory requirement under current law, however, that relates to a time lapse for action on a proposed TID by the city planning commission and the common council. There is a "not less than 10 days nor more than 30 days" requirement for action by a joint review board on a resolution adopted by a common council under sub. (4m) (b) 2. and 2m., and I've amended these two provisions. Is this your intent? Also see s. 66.1105 (4) (b), (c), (d), and (e).
8. With regard to the creation of a standing joint review board under s. 66.1105 (3) (g) and (4m) (a), as described in "policy" proposal # 26, do you want a city or village that

is acting under s. 66.1106, the environmental remediation TIF statute, to be able to require the use of a standing joint review board under s. 66.1106 (3) (d)?

Marc E. Shovers  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBb0820/P1dn  
MES:kmg&rjs:jf

June 18, 2001

John Keckhaver:

You have asked that I prepare this amendment based on bill draft LRB-3399/P2, which is based on the technical and policy recommendations contained in the governor's working group on tax incremental finance.

Please review this amendment very carefully to ensure that it meets your intent. There are quite a few changes of time periods or deadlines in certain statutes, and some of these statutes are interrelated with, or contingent on, time periods or deadlines in other statutes. In addition, you may want the department of revenue to review the amendment, especially the timing changes. I have done this amendment as a preliminary draft because I have a number of questions and comments that should be resolved before I produce a /1 version of the amendment. Some of the questions or comments are contained in the text of the amendment as "\*\*\*\*\*NOTES", and some are listed here.

1. As your instructions specified, the wording in created s. 66.1105 (15) is based on s. 62.71 (13), although I'm not sure what the legal effect is of the standard in ss. 62.71 (13) and 66.1105 (15), "not affecting substantial justice."
2. Problem # 2 in the "technical" proposals states, in part, that "territory amendments have no value limit restrictions." I don't think this is the case, so I did not execute the instruction to "amend the statutes to specify that territory amendments to TIDS will be subject to the value limit restrictions not required for new TIDS." Section 66.1105 (4) (h) 2., which allows the amendment of a project plan, refers back to 66.1105 (4) (h) 1., which requires the same findings as provided in par. (g), which requires the adoption of a resolution under s. 66.1105 (4) (gm). That resolution, in s. 66.1105 (4) (gm) 4. c., contains the value limits. Consequently, I believe that an amendment to a project plan is already subject to the value limit restrictions.
3. I believe that the amendment of s. 66.1105 (4m) (a) and the creation of par. (am) are consistent with your instructions, but I'm not sure that your instructions address all of the potential situations and I'm not sure how s. 66.1105 (4m) (a) works under current law. For example, how is representation on a joint review board to be handled if a proposed TID is partly in a school district and partly in a union high school district? Currently, how is representation on a joint review board handled if a proposed TID is in a union high school district and wholly in one of the underlying elementary districts?

The property of the TID in such a case does not contain property that has a greater value in one of the two districts because all of the TID is in both districts.

4. Please review carefully created s. 66.1105 (4m) (b) 4.; the instructions for this item, "policy" proposal 2, the second item under "Resolved", are a little unclear to me. First, it seems unusual to allow a member to ask for DOR review after all the hearings and reviews have taken place, and after the city has been notified of the board's decision. Second, the instructions state that if DOR finds an error or ambiguity in a "TIF filing", DOR shall return the filing to the board for "correction and/or clarification." This last part of the instruction doesn't make sense to me. A member of the board has asked for a DOR review of the proposal submitted by a city. If DOR finds a problem, it's in the materials submitted by the *city*. Consequently, it doesn't make sense to me to require the *board* to "correct or clarify" the city's proposal. In created s. 66.1105 (4m) (b) 4., I required the city to correct the problem and resubmit the proposal, and the board to review the resubmitted proposal. Is this OK?

5. I increased from seven years to ten years the length of time during which expenditures may be made under s. 66.1105 (6) (am) 1. c. I couldn't tell from your instructions, however, whether you wanted to change the time after which a tax increment may not be allocated under s. 66.1105 (6) (a) or the time after which a TID must terminate under s. 66.1105 (7) (am). See s. 66.1105 (6) (a) 5. and 6. Is this OK, or did you want a change made in sub. (6) (a) or (7) (am)?

6. The creation of s. 60.23 (32) and the amendment of the Laws of 1975, chapter 105, section 1 (1) and (2) accomplishes the intent of your instruction # 17 in the "policy" proposals to allow towns that are located in counties with no cities or villages to use TIF, but I believe that should this provision become law, it could be challenged as a violation of article IV, section 23, of the Wisconsin Constitution. That provision states that "The legislature shall establish but one system of town government, which shall be as nearly uniform as practicable . . ." It could be argued that the proposal to allow TIF to be used only by towns in Menominee County and Florence County is inconsistent with the constitutional requirement that the legislature create "but one system of town government."

7. Instruction # 22 of the "policy" proposals states that "[c]urrent law requires a time lapse of 10 to 30 days from action on a proposed TID by the municipal planning body, and action by the municipal governing body," and requests that this time period be changed to "not less than 14 days." There is no statutory requirement under current law, however, that relates to a time lapse for action on a proposed TID by the city planning commission and the common council. There is a "not less than 10 days nor more than 30 days" requirement for action by a joint review board on a resolution adopted by a common council under sub. (4m) (b) 2. and 2m., and I've amended these two provisions. Is this your intent? Also see s. 66.1105 (4) (b), (c), (d), and (e).

8. With regard to the creation of a standing joint review board under s. 66.1105 (3) (g) and (4m) (a), as described in "policy" proposal # 26, do you want a city or village that

is acting under s. 66.1106, the environmental remediation TIF statute, to be able to require the use of a standing joint review board under s. 66.1106 (3) (d)?

Marc E. Shovers  
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## Shovers, Marc

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**From:** Burnett, Douglas  
**Sent:** Monday, June 18, 2001 6:42 PM  
**To:** Shovers, Marc  
**Cc:** Runde, Al  
**Subject:** Hopefully getting LRBb-0820/P1dn introducible

To respond to your drafters' note on the TIF draft, I will go through your \*\*\*\*Notes individually, and note the page and line number after which the note starts:

~~Page 2, Line 3:~~ Delete the subdivision paragraph you're describing.

~~Page 3, Line 3:~~ OK, no change needed

~~Page 4, Top of Page:~~ Yes, that sentence is OK

~~Page 5, Top of Page:~~ The cross reference is fine

~~Page 6, Line 6:~~ OK, no change needed

~~Page 8, Line 10:~~ Yes, that time period is fine

~~Page 9, Line 3:~~ Yes, making the city correct and resubmit is fine.

~~Page 9, line 8:~~ This is fine

~~Page 13, Line 12:~~ OK

~~Page 14, Line 12:~~ Leave this subdivision as is, but we will revisit it when we start dealing with the Assembly on this item.

~~Page 15, Line 8:~~ The 5-year termination date is fine.

~~Page 15, Line 18:~~ Yes, that works.