



Vote
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1016/24
RAC:jld&kmg:cph

RMK

DOA:.....Hoadley – BB0380, Payment of unfunded prior service liability
under the Wisconsin Retirement System

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

Don't gen

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE FINANCE

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes DOA to issue appropriation obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. Under the bill, an appropriation obligation is an undertaking by the state to repay a certain amount of borrowed money that is payable from moneys annually appropriated by law for debt service due in that year. The bill also provides that an appropriation obligation is not public debt and that the state is only required to repay in debt service costs in each fiscal year an amount that is actually appropriated for

debt service costs in that fiscal year. If moneys are not appropriated in any fiscal year for the payment of debt service costs, the state is not obligated to pay the debt service costs incurred in that fiscal year. The bill, however, does contain a “moral obligation” pledge, in which the legislature, recognizing its moral obligation to do so, expresses its expectation and aspiration that it will make timely appropriations from moneys in the general fund sufficient to pay the principal and interest costs on any appropriation obligations that are incurred in any year.

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:

16.523(8), 16.526(8), ✓

1 SECTION 1. 13.40 (3) (b) of the statutes is amended to read:

2 13.40 (3) (b) An appropriation to honor a moral obligation undertaken
3 pursuant to ss. ~~16.527~~ ⁽¹⁰⁾ 18.61 (5), 85.25 (5), 101.143 (9m) (i), 229.50 (7), 229.74 (7),
4 229.830 (7), 234.15 (4), 234.42 (4), 234.54 (4) (b), 234.626 (7), 234.93 (6), 234.932 (6),
5 234.933 (6), and 281.59 (13m).

✓
Insert
2-6
6

6 SECTION 2. 16.527 of the statutes is created to read:

7 **16.527 Retirement of state’s unfunded prior service liability under the**
8 **Wisconsin Retirement System; appropriation obligations.** (1) LEGISLATIVE
9 FINDING AND DETERMINATION. Recognizing that the state, by prepaying part or all of
10 the state’s unfunded prior service liability under s. 40.05 (2) (b), may reduce its costs
11 and better ensure the timely and full payment of retirement benefits to participants
12 and their beneficiaries under the Wisconsin Retirement System, the legislature finds
13 and determines that it is in the public interest for the state to issue appropriation
14 obligations to pay part or all of the state’s unfunded prior service liability under s.
15 40.05 (2) (b).

16 (2) DEFINITIONS. In this section:

1 (a) “Appropriation obligation” means an undertaking by the state to repay a
2 certain amount of borrowed money that is all of the following:

3 1. Payable from moneys annually appropriated by law for debt service due in
4 that year.

5 2. Used for the purpose of paying part or all of the state’s unfunded prior service
6 liability under s. 40.05 (2) (b).

7 3. Not public debt under s. 18.01 (4).

8 (b) “Evidence of appropriation obligation” means a written promise to pay an
9 appropriation obligation.

10 (c) “Refunding obligation” means an appropriation obligation contracted to
11 fund or refund all or any part of one or more outstanding appropriation obligations.

12 (3) AUTHORIZATION OF APPROPRIATION OBLIGATIONS. (a) The department shall
13 have all powers necessary and convenient to carry out its duties, and exercise its
14 authority, under this section.

15 (b) 1. Subject to the limitation under subd. 2., the department may contract
16 appropriation obligations of the state under this section.

17 2. Appropriation obligations issued under this section may not exceed
18 \$750,000,000 in principal amount, excluding any obligations that have been
19 defeased under a cash optimization program administered by the building
20 commission. In addition to this limit on principal amount, the department may
21 contract appropriation obligations as the department determines is desirable to fund
22 or refund outstanding appropriation obligations issued under this section, to pay
23 issuance or administrative expenses, to make deposits to reserve funds, to pay
24 accrued or funded interest, to pay the costs of credit enhancement, or to make
25 payments under other agreements entered into under sub. (4) (e).

1 (4) TERMS. (a) Money may be borrowed and evidences of appropriation
2 obligation issued therefor pursuant to one or more written authorizing certifications
3 under sub. (5), unless otherwise provided in the certification, at any time, in any
4 specific amounts, at any rates of interest, for any term, payable at any intervals, at
5 any place, in any manner, and having any other terms or conditions that the
6 department considers necessary or useful. Appropriation obligations may bear
7 interest at variable or fixed rates, bear no interest, or bear interest payable only at
8 maturity or upon redemption prior to maturity.

9 (b) The department may authorize evidences of appropriation obligation
10 having any provisions for prepayment considered necessary or useful, including the
11 payment of any premium.

12 (c) Interest shall cease to accrue on an appropriation obligation on the date that
13 the obligation becomes due for payment if payment is made or duly provided for, but
14 the obligation and accrued interest shall continue to be a binding obligation
15 according to its terms until 6 years overdue for payment, or such longer period as may
16 be required by federal law. At that time, unless demand for its payment has been
17 made, it shall be extinguished and considered no longer outstanding.

18 (d) All money borrowed by the state pursuant to evidences of appropriation
19 obligation issued under this section shall be lawful money of the United States, and
20 all appropriation obligations shall be payable in such money.

21 (e) At the time of contracting for the appropriation obligations and at any time
22 thereafter so long as the appropriation obligations are outstanding, the department
23 may enter into agreements and ancillary arrangements relating to the appropriation
24 obligations, including trust indentures, liquidity facilities, remarketing or dealer
25 agreements, letter of credit agreements, insurance policies, guaranty agreements,

1 reimbursement agreements, indexing agreements, or interest exchange
2 agreements. At the time of contracting for any such agreement or ancillary
3 arrangement, the department shall determine all of the following, if applicable:

4 1. For any payments to be received with respect to the agreement or ancillary
5 arrangement, whether the payment will be deposited into the bond security and
6 redemption fund or the capital improvement fund.

7 2. For any payment to be made with respect to the agreement or ancillary
8 arrangement, whether the payment will be made from the bond security and
9 redemption fund or the capital improvement fund and the timing of any transfer of
10 funds. For purposes of this subdivision, the source may be any fund established with
11 respect to the related appropriation obligations or any appropriation for debt service
12 or issuance expenses made with respect to the related appropriation obligations.

13 (f) All evidences of appropriation obligation owned or held by any state fund are
14 outstanding in all respects and the state agency controlling the fund shall have the
15 same rights with respect to an evidence of appropriation obligation as a private party,
16 but if any sinking fund acquires evidences of appropriation obligation that gave rise
17 to such fund, the obligations are considered paid for all purposes and no longer
18 outstanding and shall be canceled as provided in sub. (8) (e). All evidences of
19 appropriation obligation owned by any state fund shall be registered to the fullest
20 extent registrable.

21 (5) PROCEDURES. (a) No evidence of appropriation obligation may be issued by
22 the state unless the issuance is pursuant to a written authorizing certification. The
23 certification shall set forth the aggregate principal amount of appropriation
24 obligations authorized thereby, the manner of sale of the evidences of appropriation
25 obligation, and the form and terms thereof. The certification shall be signed by the

1 secretary, or his or her designee, and shall be transmitted to the governor and the
2 state treasurer.

3 (b) Appropriation obligations may be sold at either public or private sale and
4 may be sold at any price or percentage of par value. The department may provide
5 in any authorizing certification for refunding obligations under sub. (7) that they be
6 exchanged privately in payment and discharge of any of the outstanding obligations
7 being refinanced. All appropriation obligations sold at public sale shall be noticed
8 as provided in the authorizing certification. Any bid received at public sale may be
9 rejected.

10 (6) FORM. (a) Evidences of appropriation obligation may be in the form of
11 bonds, notes, or other evidences of obligation, and may be issued in book-entry form
12 or in certificated form. Notwithstanding s. 403.104 (1), every evidence of
13 appropriation obligation is a negotiable instrument.

14 (b) Every evidence of appropriation obligation shall be executed in the name
15 of and for the state by the governor and the state treasurer and shall be sealed with
16 the great seal of the state or a facsimile thereof. The facsimile signature of either the
17 governor or state treasurer, or both, may be imprinted in lieu of the manual signature
18 of such officer, as the department directs, if approved by such officer. An evidence
19 of appropriation obligation bearing the manual or facsimile signature of a person in
20 office at the time such signature was signed or imprinted shall be fully valid
21 notwithstanding that before or after the delivery thereof such person ceased to hold
22 such office.

23 (c) Every evidence of appropriation obligation shall be dated not later than the
24 date issued, shall contain a reference by date to the appropriate authorizing
25 certification, and shall be in accordance with the authorizing certification.

1 (d) An evidence of appropriation obligation shall be in such form and contain
2 such statements or terms as determined by the department, and may not conflict
3 with law or with the appropriate authorizing certification.

4 (7) REFUNDING OBLIGATIONS. (a) 1. The department may authorize the issuance
5 of appropriation obligation refunding obligations. Refunding obligations may be
6 issued, subject to any contract rights vested in owners of obligations being
7 refinanced, to refinance all or any part of one or more issue of obligations
8 notwithstanding that the obligations may have been issued at different times. The
9 principal amount of the refunding obligations may not exceed the sum of: the
10 principal amount of the obligations being refinanced; applicable redemption
11 premiums; unpaid interest on the obligations to the date of delivery or exchange of
12 the refunding obligations; in the event the proceeds are to be deposited in trust as
13 provided in par. (c), interest to accrue on the obligations from the date of delivery to
14 the date of maturity or to the redemption date selected by the department, whichever
15 is earlier; and the expenses incurred in the issuance of the refunding obligations and
16 the payment of the obligations.

17 2. A determination by the department that a refinancing is advantageous or
18 that any of the amounts provided subd. 1. should be included in the refinancing shall
19 be conclusive.

20 (b) If the department determines to exchange refunding obligations, they may
21 be exchanged privately for and in payment and discharge of any of the outstanding
22 obligations being refinanced. Refunding obligations may be exchanged for such
23 principal amount of the obligations being exchanged therefor as may be determined
24 by the department to be necessary or advisable. The owners of the obligations being
25 refunded who elect to exchange need not pay accrued interest on the refunding

1 obligations if and to the extent that interest is accrued and unpaid on the obligations
2 being refunded and to be surrendered. If any of the obligations to be refinanced are
3 to be called for redemption, the department shall determine which redemption dates
4 are to be used, if more than one date is applicable and shall, prior to the issuance of
5 the refunding obligations, provide for notice of redemption to be given in the manner
6 and at the times required by the certification authorizing the outstanding
7 obligations.

8 (c) 1. The principal proceeds from the sale of any refunding obligations shall
9 be applied either to the immediate payment and retirement of the obligations being
10 refinanced or, if the obligations have not matured and are not presently redeemable,
11 to the creation of a trust for and shall be pledged to the payment of the obligations
12 being refinanced.

13 2. If a trust is created, a separate deposit shall be made for each issue of
14 appropriation obligations being refinanced. Each deposit shall be with the state
15 treasurer or a bank or trust company that is a member of the Federal Deposit
16 Insurance Corporation. If the total amount of any deposit, including money other
17 than sale proceeds but legally available for such purpose, is less than the principal
18 amount of the obligations being refinanced and for the payment of which the deposit
19 has been created and pledged, together with applicable redemption premiums and
20 interest accrued and to accrue to maturity or to the date of redemption, then the
21 application of the sale proceeds shall be legally sufficient only if the money deposited
22 is invested in securities issued by the United States or one of its agencies, or
23 securities fully guaranteed by the United States, and only if the principal amount
24 of the securities at maturity and the income therefrom to maturity will be sufficient
25 and available, without the need for any further investment or reinvestment, to pay

1 at maturity or upon redemption the principal amount of the obligations being
2 refinanced together with applicable redemption premiums and interest accrued and
3 to accrue to maturity or to the date of redemption. The income from the principal
4 proceeds of the securities shall be applied solely to the payment of the principal of
5 and interest and redemption premiums on the obligations being refinanced, but
6 provision may be made for the pledging and disposition of any surplus.

7 3. Nothing in this paragraph may be construed as a limitation on the duration
8 of any deposit in trust for the retirement of obligations being refinanced that have
9 not matured and that are not presently redeemable. Nothing in this paragraph may
10 be construed to prohibit reinvestment of the income of a trust if the reinvestments
11 will mature at such times that sufficient cash will be available to pay interest,
12 applicable premiums, and principal on the obligations being refinanced.

13 (8) FISCAL REGULATIONS. (a) The state treasurer shall act as registrar for each
14 evidence of appropriation obligation. No transfer of a registered evidence of
15 appropriation obligation is valid unless made on a register maintained by the state
16 treasurer, and the state may treat the registered owner as the owner of the
17 instrument for all purposes. Payments of principal and interest shall be by electronic
18 funds transfer, check, share draft, or other draft to the registered owner at the
19 owner's address as it appears on the register, unless the department has otherwise
20 provided. Information in the register is not available for inspection and copying
21 under s. 19.35 (1). The department may make any other provision respecting
22 registration as it considers necessary or useful. The state treasurer may enter into
23 a contract for the performance of any of his or her functions relating to appropriation
24 obligations.

1 (b) The state treasurer, or the treasurer's agent, shall maintain records
2 containing a full and correct description of each evidence of appropriation obligation
3 issued, identifying it, and showing its date, issue, amount, interest rate, payment
4 dates, payments made, registration, destruction, and every other relevant
5 transaction.

6 (c) The secretary may appoint one or more trustees and fiscal agents for each
7 issue of appropriation obligations. The state treasurer may be denominated the
8 trustee and the sole fiscal agent or a cofiscal agent for any issue of appropriation
9 obligations. Every other fiscal agent shall be an incorporated bank or trust company
10 authorized by the laws of the United States or of the state in which it is located to
11 do a banking or trust company business. There may be deposited with a trustee, in
12 a special account, moneys to be used only for the purposes expressly provided in the
13 certification authorizing the issuance of evidences of appropriation obligation or an
14 agreement between the department and the trustee. The department may make
15 other provisions respecting trustees and fiscal agents as the department considers
16 necessary or useful and may enter into a contract with any trustee or fiscal agent
17 containing such terms, including compensation, and conditions in regard to the
18 trustee or fiscal agent as the department considers necessary or useful.

19 (d) If any evidence of appropriation obligation is destroyed, lost, or stolen, the
20 department shall execute and deliver a new evidence of appropriation obligation,
21 upon filing with the department evidence satisfactory to the department that the
22 evidence of appropriation obligation has been destroyed, lost, or stolen, upon
23 providing proof of ownership thereof, and upon furnishing the department with
24 indemnity satisfactory to it and complying with such other rules of the department
25 and paying any expenses that the department or the state treasurer may incur. The

1 department shall cancel the evidences of appropriation obligation surrendered to the
2 department.

3 (e) Unless otherwise directed by the department, every evidence of
4 appropriation obligation paid or otherwise retired shall be marked “canceled” and
5 delivered, through the state treasurer if delivered to a fiscal agent other than the
6 state treasurer, to the state auditor who shall destroy them and deliver to the state
7 treasurer a certificate to that effect.

8 (9) APPROPRIATION OBLIGATIONS AS LEGAL INVESTMENTS. Any of the following may
9 legally invest any sinking funds, moneys, or other funds belonging to them or under
10 their control in any appropriation obligations issued under this section:

11 (a) The state, the investment board, public officers, municipal corporations,
12 political subdivisions, and public bodies.

13 (b) Banks and bankers, savings and loan associations, credit unions, trust
14 companies, savings banks and institutions, investment companies, insurance
15 companies, insurance associations, and other persons carrying on a banking or
16 insurance business.

17 (c) Personal representatives, guardians, trustees, and other fiduciaries.

18 (10) MORAL OBLIGATION PLEDGE. Recognizing its moral obligation to do so, the
19 legislature expresses its expectation and aspiration that it shall make timely
20 appropriations from moneys in the general fund that are sufficient to pay the
21 principal and interest costs on any appropriation obligations that are incurred in any
22 year.

23 SECTION 3. 20.505 (1) (br) of the statutes is created to read:

1 20.505 (1) (br) *Appropriation obligations repayment.* The amounts in the
2 schedule to pay debt service costs due in the current fiscal year on appropriation
3 obligations issued under s. 16.527.

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

SECTION 4. 20.505 (1) ~~(a)~~ ^(ia) of the statutes is created to read:

4
5 20.505 (1) ~~(a)~~ ^(ia) *Appropriation obligation proceeds.* All moneys received as
6 proceeds from appropriation obligations that are issued under s. 16.527 to pay part
7 or all of the state's unfunded prior service liability under s. 40.05 (2) (b), as
8 determined by the department of administration, and to provide for reserves and for
9 expenses of issuance and administration of the appropriation obligations, and any
10 related obligations incurred under agreements entered into under s. 16.527 (4) (e).
11 Estimated disbursements under this paragraph shall not be included in the schedule
12 under s. 20.005.

(END)

D-note
↓

INSERT
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*** NOTE : This is reconciled

S. 13.40 (3) (b).[✓] This section
- drafts with the following LRB#s:

has been affected by LRB-1016, LRB-0854,
and LRB-1797.

(end ins 2-6)



Note:
reconciliation

D-Note

This draft reconciles LRB-1016, LRB-0854,
and LRB-1797. All drafts will continue
to appear in the compiled bill.

RAC

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

LRB-1016/4dn
RAC:jld&kmg:pg

February 5, 2003

This draft reconciles LRB-1016, LRB-0854, and LRB-1797. All of these drafts will continue to appear in the compiled bill.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us

DOA:.....Hoadley - BB0380, Payment of unfunded prior service liability
under the Wisconsin Retirement System

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau


STATE GOVERNMENT

STATE FINANCE

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes DOA to issue appropriation obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. Under the bill, an appropriation obligation is an undertaking by the state to repay a certain amount of borrowed money that is payable from moneys annually appropriated by law for debt service due in that year. The bill also provides that an appropriation obligation is not public debt and that the state is only required to repay in debt service costs in each fiscal year an amount that is actually appropriated for

1 (a) "Appropriation obligation" means an undertaking by the state to repay a
2 certain amount of borrowed money that is all of the following:

3 1. Payable from moneys annually appropriated by law for debt service due in
4 that year. *with respect to such undertaking* 

5 2. Used for the purpose of paying part or all of the state's unfunded prior service
6 liability under s. 40.05 (2) (b).

7 3. Not public debt under s. 18.01 (4).

8 (b) "Evidence of appropriation obligation" means a written promise to pay an
9 appropriation obligation.

10 (c) "Refunding obligation" means an appropriation obligation contracted to
11 fund or refund all or any part of one or more outstanding appropriation obligations.

12 (3) AUTHORIZATION OF APPROPRIATION OBLIGATIONS. (a) The department shall
13 have all powers necessary and convenient to carry out its duties, and exercise its
14 authority, under this section.

15 (b) 1. Subject to the limitation under subd. 2., the department may contract
16 appropriation obligations of the state under this section.

17 2. Appropriation obligations issued under this section may not exceed
18 \$750,000,000 in principal amount, excluding any obligations that have been
19 defeased under a cash optimization program administered by the building
20 commission. In addition to this limit on principal amount, the department may
21 contract appropriation obligations as the department determines is desirable to fund
22 or refund outstanding appropriation obligations issued under this section, to pay
23 issuance or administrative expenses, to make deposits to reserve funds, to pay
24 accrued or funded interest, to pay the costs of credit enhancement, or to make
25 payments under other agreements entered into under sub. (4) (e).

1 reimbursement agreements, indexing agreements, or interest exchange
2 agreements. At the time of contracting for any such agreement or ancillary
3 arrangement, the department shall determine all of the following, if applicable:

4 1. For any payments to be received with respect to the agreement or ancillary
5 arrangement, whether the payment will be deposited into the bond security and
6 redemption fund or the capital improvement fund.

7 2. For any payment to be made with respect to the agreement or ancillary
8 arrangement, whether the payment will be made from the bond security and
9 redemption fund or the capital improvement fund and the timing of any transfer of
10 funds. For purposes of this subdivision, the source may be any fund established with
11 respect to the related appropriation obligations or any appropriation for debt service
12 or issuance expenses made with respect to the related appropriation obligations.

13 (f) All evidences of appropriation obligation owned or held by any state fund are
14 outstanding in all respects and the state agency controlling the fund shall have the
15 same rights with respect to an evidence of appropriation obligation as a private party,
16 but if any sinking fund acquires evidences of appropriation obligation that gave rise
17 to such fund, the obligations are considered paid for all purposes and no longer
18 outstanding and shall be canceled as provided in sub. (8) (e). All evidences of
19 appropriation obligation owned by any state fund shall be registered to the fullest
20 extent registrable.

21 (5) PROCEDURES. (a) No evidence of appropriation obligation may be issued by
22 the state unless the issuance is pursuant to a written authorizing certification. The
23 certification shall set forth the aggregate principal amount of appropriation
24 obligations authorized thereby, the manner of sale of the evidences of appropriation
25 obligation, and the form and terms thereof. The certification shall be signed by the

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1 secretary, or his or her designee, and shall be transmitted to the governor and the
2 state treasurer.

3 (b) Appropriation obligations may be sold at either public or private sale and
4 may be sold at any price or percentage of par value. The department may provide
5 in any authorizing certification for refunding obligations under sub. (7) that they be
6 exchanged privately in payment and discharge of any of the outstanding obligations
7 being refinanced. All appropriation obligations sold at public sale shall be noticed
8 as provided in the authorizing certification. Any bid received at public sale may be
9 rejected.

10 (6) FORM. (a) Evidences of appropriation obligation may be in the form of
11 bonds, notes, or other evidences of obligation, and may be issued in book-entry form
12 or in certificated form. Notwithstanding s. 403.104 (1), every evidence of
13 appropriation obligation is a negotiable instrument.

14 (b) Every evidence of appropriation obligation shall be executed in the name
15 of and for the state by the governor and the state treasurer and shall be sealed with
16 the great seal of the state or a facsimile thereof. The facsimile signature of either the
17 governor or state treasurer, or both, may be imprinted in lieu of the manual signature
18 of such officer, as the department directs, if approved by such officer. An evidence
19 of appropriation obligation bearing the manual or facsimile signature of a person in
20 office at the time such signature was signed or imprinted shall be fully valid
21 notwithstanding that before or after the delivery thereof such person ceased to hold
22 such office.

23 (c) Every evidence of appropriation obligation shall be dated not later than the
24 date issued, shall contain a reference by date to the appropriate authorizing
25 certification, and shall be in accordance with the authorizing certification.

shall state the limitation
set forth in sub (4)(g),

1 department shall cancel the evidences of appropriation obligation surrendered to the
2 department.

3 (e) Unless otherwise directed by the department, every evidence of
4 appropriation obligation paid or otherwise retired shall be marked "canceled" and
5 delivered, through the state treasurer if delivered to a fiscal agent other than the
6 state treasurer, to the state auditor who shall destroy them and deliver to the state
7 treasurer a certificate to that effect.

8 (9) APPROPRIATION OBLIGATIONS AS LEGAL INVESTMENTS. Any of the following may
9 legally invest any sinking funds, moneys, or other funds belonging to them or under
10 their control in any appropriation obligations issued under this section:

11 (a) The state, the investment board, public officers, municipal corporations,
12 political subdivisions, and public bodies.

13 (b) Banks and bankers, savings and loan associations, credit unions, trust
14 companies, savings banks and institutions, investment companies, insurance
15 companies, insurance associations, and other persons carrying on a banking or
16 insurance business.

17 (c) Personal representatives, guardians, trustees, and other fiduciaries.

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19 legislature expresses its expectation and aspiration that it shall make timely
20 appropriations from moneys in the general fund that are sufficient to pay the
21 principal and interest costs on any appropriation obligations that are incurred in any
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1016/2dn
RAC:kmg:cph

February 1, 2003

Frank Hoadley:

You will have to determine if you want a separate proceeds fund, as suggested by bond counsel, or if you want to keep the current appropriation structure. Under the bill, two appropriations are created. Section 20.505 (1) (ir) creates a program revenue account in the general fund, to which is credited all of the proceeds received from the sale of the appropriation obligations. Money remains in this account and may only be used for the purpose of paying the unfunded liability, and to provide for reserves, and for expenses of issuance and administration of the obligations. Section 20.505 (1) (br) creates an appropriation from the general fund to pay debt service costs on the obligations that are due in the current fiscal year. Please advise.

I
agree

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1016/4 5
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RMR

DOA:.....Hoadley – BB0380, Payment of unfunded prior service liability
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debt service costs in that fiscal year. If moneys are not appropriated in any fiscal year for the payment of debt service costs, the state is not obligated to pay the debt service costs incurred in that fiscal year. The bill, however, does contain a “moral obligation” pledge, in which the legislature, recognizing its moral obligation to do so, expresses its expectation and aspiration that it will make timely appropriations from moneys in the general fund sufficient to pay the principal and interest costs on any appropriation obligations that are incurred in any year.

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.** 13.40 (3) (b) of the statutes is amended to read:

2 13.40 (3) (b) An appropriation to honor a moral obligation undertaken
3 pursuant to ss. 16.523 (8), 16.526 (8), 16.527 (10), 18.61 (5), 85.25 (5), 101.143 (9m)
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5 (7), 234.93 (6), 234.932 (6), 234.933 (6), and 281.59 (13m).

 ****NOTE: This is reconciled s. 13.40 (3) (b). This SECTION has been affected by drafts with the following LRB numbers: LRB-1016, LRB-0854, and LRB-1797.

6 **SECTION 2.** 16.527 of the statutes is created to read:

7 **16.527 Retirement of state’s unfunded prior service liability under the**
8 **Wisconsin Retirement System; appropriation obligations.** (1) LEGISLATIVE
9 FINDING AND DETERMINATION. Recognizing that the state, by prepaying part or all of
10 the state’s unfunded prior service liability under s. 40.05 (2) (b), may reduce its costs
11 and better ensure the timely and full payment of retirement benefits to participants
12 and their beneficiaries under the Wisconsin Retirement System, the legislature finds
13 and determines that it is in the public interest for the state to issue appropriation
14 obligations to pay part or all of the state’s unfunded prior service liability under s.
15 40.05 (2) (b).

16 **(2) DEFINITIONS.** In this section:

1 (a) "Appropriation obligation" means an undertaking by the state to repay a
2 certain amount of borrowed money that is all of the following:

3 1. Payable from moneys annually appropriated by law for debt service due in
4 that year.

5 2. Used for the purpose of paying part or all of the state's unfunded prior service
6 liability under s. 40.05 (2) (b).

7 3. Not public debt under s. 18.01 (4).

8 (b) "Evidence of appropriation obligation" means a written promise to pay an
9 appropriation obligation.

10 (c) "Refunding obligation" means an appropriation obligation contracted to
11 fund or refund all or any part of one or more outstanding appropriation obligations.

12 (3) AUTHORIZATION OF APPROPRIATION OBLIGATIONS. (a) The department shall
13 have all powers necessary and convenient to carry out its duties, and exercise its
14 authority, under this section.

15 (b) 1. Subject to the limitation under subd. 2., the department may contract
16 appropriation obligations of the state under this section.

17 2. Appropriation obligations issued under this section may not exceed
18 \$750,000,000 in principal amount, excluding any obligations that have been
19 defeased under a cash optimization program administered by the building
20 commission. In addition to this limit on principal amount, the department may
21 contract appropriation obligations as the department determines is desirable to fund
22 or refund outstanding appropriation obligations issued under this section, to pay
23 issuance or administrative expenses, to make deposits to reserve funds, to pay
24 accrued or funded interest, to pay the costs of credit enhancement, or to make
25 payments under other agreements entered into under sub. (4) (e).

with respect to such undertakings

1 (4) TERMS. (a) Money may be borrowed and evidences of appropriation
2 obligation issued therefor pursuant to one or more written authorizing certifications
3 under sub. (5), unless otherwise provided in the certification, at any time, in any
4 specific amounts, at any rates of interest, for any term, payable at any intervals, at
5 any place, in any manner, and having any other terms or conditions that the
6 department considers necessary or useful. Appropriation obligations may bear
7 interest at variable or fixed rates, bear no interest, or bear interest payable only at
8 maturity or upon redemption prior to maturity.

9 (b) The department may authorize evidences of appropriation obligation
10 having any provisions for prepayment considered necessary or useful, including the
11 payment of any premium.

12 (c) Interest shall cease to accrue on an appropriation obligation on the date that
13 the obligation becomes due for payment if payment is made or duly provided for, but
14 the obligation and accrued interest shall continue to be a binding obligation
15 according to its terms until 6 years overdue for payment, or such longer period as may
16 be required by federal law. At that time, unless demand for its payment has been
17 made, it shall be extinguished and considered no longer outstanding.

18 (d) All money borrowed by the state pursuant to evidences of appropriation
19 obligation issued under this section shall be lawful money of the United States, and
20 all appropriation obligations shall be payable in such money.

21 (e) At the time of ^{, or IN ANTICIPATION OF, ✓} contracting for the appropriation obligations and at any time
22 thereafter so long as the appropriation obligations are outstanding, the department
23 may enter into agreements and ancillary arrangements relating to the appropriation
24 obligations, including trust indentures, liquidity facilities, remarketing or dealer
25 agreements, letter of credit agreements, insurance policies, guaranty agreements,

Insert
5-2

1 reimbursement agreements, indexing agreements, or interest exchange
2 agreements. ~~At the time of contracting for any such agreement or ancillary~~

3 ~~arrangement, the department shall determine all of the following, if applicable.~~

4 1. For any payments to be received with respect to the agreement or ancillary
5 arrangement, whether the payment will be deposited into the bond security and
6 redemption fund or the capital improvement fund.

7 2. For any payment to be made with respect to the agreement or ancillary
8 arrangement, whether the payment will be made from the bond security and
9 redemption fund or the capital improvement fund and the timing of any transfer of
10 funds. For purposes of this subdivision, the source may be any fund established with
11 respect to the related appropriation obligations or any appropriation for debt service
12 or issuance expenses made with respect to the related appropriation obligations.

13 (f) All evidences of appropriation obligation owned or held by any state fund are
14 outstanding in all respects and the state agency controlling the fund shall have the
15 same rights with respect to an evidence of appropriation obligation as a private party,
16 but if any sinking fund acquires evidences of appropriation obligation that gave rise
17 to such fund, the obligations are considered paid for all purposes and no longer
18 outstanding and shall be canceled as provided in sub. (8) (e). All evidences of
19 appropriation obligation owned by any state fund shall be registered to the fullest
20 extent registrable.

Insert
5-21

21 (5) PROCEDURES. (a) No evidence of appropriation obligation may be issued by
22 the state unless the issuance is pursuant to a written authorizing certification. The
23 certification shall set forth the aggregate principal amount of appropriation
24 obligations authorized thereby, the manner of sale of the evidences of appropriation
25 obligation, and the form and terms thereof. The certification shall be signed by the

1 secretary, or his or her designee, and shall be transmitted to the governor and the
2 state treasurer.

3 (b) Appropriation obligations may be sold at either public or private sale and
4 may be sold at any price or percentage of par value. The department may provide
5 in any authorizing certification for refunding obligations under sub. (7) that they be
6 exchanged privately in payment and discharge of any of the outstanding obligations
7 being refinanced. All appropriation obligations sold at public sale shall be noticed
8 as provided in the authorizing certification. Any bid received at public sale may be
9 rejected.

10 (6) FORM. (a) Evidences of appropriation obligation may be in the form of
11 bonds, notes, or other evidences of obligation, and may be issued in book-entry form
12 or in certificated form. Notwithstanding s. 403.104 (1), every evidence of
13 appropriation obligation is a negotiable instrument.

14 (b) Every evidence of appropriation obligation shall be executed in the name
15 of and for the state by the governor and the state treasurer and shall be sealed with
16 the great seal of the state or a facsimile thereof. The facsimile signature of either the
17 governor or state treasurer, or both, may be imprinted in lieu of the manual signature
18 of such officer, as the department directs, if approved by such officer. An evidence
19 of appropriation obligation bearing the manual or facsimile signature of a person in
20 office at the time such signature was signed or imprinted shall be fully valid
21 notwithstanding that before or after the delivery thereof such person ceased to hold
22 such office.

23 (c) Every evidence of appropriation obligation shall be dated not later than the
24 date issued, shall contain a reference by date to the appropriate authorizing
25 certification, and shall be in accordance with the authorizing certification.

shall state the limitation established
in sub. (4) (9) ✓

1 (d) An evidence of appropriation obligation shall be in such form and contain
2 such statements or terms as determined by the department, and may not conflict
3 with law or with the appropriate authorizing certification.

4 (7) REFUNDING OBLIGATIONS. (a) 1. The department may authorize the issuance
5 of appropriation obligation refunding obligations. Refunding obligations may be
6 issued, subject to any contract rights vested in owners of obligations being
7 refinanced, to refinance all or any part of one or more issue of obligations
8 notwithstanding that the obligations may have been issued at different times. The
9 principal amount of the refunding obligations may not exceed the sum of: the
10 principal amount of the obligations being refinanced; applicable redemption
11 premiums; unpaid interest on the obligations to the date of delivery or exchange of
12 the refunding obligations; in the event the proceeds are to be deposited in trust as
13 provided in par. (c), interest to accrue on the obligations from the date of delivery to
14 the date of maturity or to the redemption date selected by the department, whichever
15 is earlier; and the expenses incurred in the issuance of the refunding obligations and
16 the payment of the obligations.

17 2. A determination by the department that a refinancing is advantageous or
18 that any of the amounts provided subd. 1. should be included in the refinancing shall
19 be conclusive.

20 (b) If the department determines to exchange refunding obligations, they may
21 be exchanged privately for and in payment and discharge of any of the outstanding
22 obligations being refinanced. Refunding obligations may be exchanged for such
23 principal amount of the obligations being exchanged therefor as may be determined
24 by the department to be necessary or advisable. The owners of the obligations being
25 refunded who elect to exchange need not pay accrued interest on the refunding

1 obligations if and to the extent that interest is accrued and unpaid on the obligations
2 being refunded and to be surrendered. If any of the obligations to be refinanced are
3 to be called for redemption, the department shall determine which redemption dates
4 are to be used, if more than one date is applicable and shall, prior to the issuance of
5 the refunding obligations, provide for notice of redemption to be given in the manner
6 and at the times required by the certification authorizing the outstanding
7 obligations.

8 (c) 1. The principal proceeds from the sale of any refunding obligations shall
9 be applied either to the immediate payment and retirement of the obligations being
10 refinanced or, if the obligations have not matured and are not presently redeemable,
11 to the creation of a trust for and shall be pledged to the payment of the obligations
12 being refinanced.

13 2. If a trust is created, a separate deposit shall be made for each issue of
14 appropriation obligations being refinanced. Each deposit shall be with the state
15 treasurer or a bank or trust company that is a member of the Federal Deposit
16 Insurance Corporation. If the total amount of any deposit, including money other
17 than sale proceeds but legally available for such purpose, is less than the principal
18 amount of the obligations being refinanced and for the payment of which the deposit
19 has been created and pledged, together with applicable redemption premiums and
20 interest accrued and to accrue to maturity or to the date of redemption, then the
21 application of the sale proceeds shall be legally sufficient only if the money deposited
22 is invested in securities issued by the United States or one of its agencies, or
23 securities fully guaranteed by the United States, and only if the principal amount
24 of the securities at maturity and the income therefrom to maturity will be sufficient
25 and available, without the need for any further investment or reinvestment, to pay

1 at maturity or upon redemption the principal amount of the obligations being
2 refinanced together with applicable redemption premiums and interest accrued and
3 to accrue to maturity or to the date of redemption. The income from the principal
4 proceeds of the securities shall be applied solely to the payment of the principal of
5 and interest and redemption premiums on the obligations being refinanced, but
6 provision may be made for the pledging and disposition of any surplus.

7 3. Nothing in this paragraph may be construed as a limitation on the duration
8 of any deposit in trust for the retirement of obligations being refinanced that have
9 not matured and that are not presently redeemable. Nothing in this paragraph may
10 be construed to prohibit reinvestment of the income of a trust if the reinvestments
11 will mature at such times that sufficient cash will be available to pay interest,
12 applicable premiums, and principal on the obligations being refinanced.

13 (8) FISCAL REGULATIONS. (a) The state treasurer shall act as registrar for each
14 evidence of appropriation obligation. No transfer of a registered evidence of
15 appropriation obligation is valid unless made on a register maintained by the state
16 treasurer, and the state may treat the registered owner as the owner of the
17 instrument for all purposes. Payments of principal and interest shall be by electronic
18 funds transfer, check, share draft, or other draft to the registered owner at the
19 owner's address as it appears on the register, unless the department has otherwise
20 provided. Information in the register is not available for inspection and copying
21 under s. 19.35 (1). The department may make any other provision respecting
22 registration as it considers necessary or useful. The state treasurer may enter into
23 a contract for the performance of any of his or her functions relating to appropriation
24 obligations.

1 (b) The state treasurer, or the treasurer's agent, shall maintain records
2 containing a full and correct description of each evidence of appropriation obligation
3 issued, identifying it, and showing its date, issue, amount, interest rate, payment
4 dates, payments made, registration, destruction, and every other relevant
5 transaction.

6 (c) The secretary may appoint one or more trustees and fiscal agents for each
7 issue of appropriation obligations. The state treasurer may be denominated the
8 trustee and the sole fiscal agent or a cofiscal agent for any issue of appropriation
9 obligations. Every other fiscal agent shall be an incorporated bank or trust company
10 authorized by the laws of the United States or of the state in which it is located to
11 do a banking or trust company business. There may be deposited with a trustee, in
12 a special account, moneys to be used only for the purposes expressly provided in the
13 certification authorizing the issuance of evidences of appropriation obligation or an
14 agreement between the department and the trustee. The department may make
15 other provisions respecting trustees and fiscal agents as the department considers
16 necessary or useful and may enter into a contract with any trustee or fiscal agent
17 containing such terms, including compensation, and conditions in regard to the
18 trustee or fiscal agent as the department considers necessary or useful.

19 (d) If any evidence of appropriation obligation is destroyed, lost, or stolen, the
20 department shall execute and deliver a new evidence of appropriation obligation,
21 upon filing with the department evidence satisfactory to the department that the
22 evidence of appropriation obligation has been destroyed, lost, or stolen, upon
23 providing proof of ownership thereof, and upon furnishing the department with
24 indemnity satisfactory to it and complying with such other rules of the department
25 and paying any expenses that the department or the state treasurer may incur. The

1 department shall cancel the evidences of appropriation obligation surrendered to the
2 department.

3 (e) Unless otherwise directed by the department, every evidence of
4 appropriation obligation paid or otherwise retired shall be marked “canceled” and
5 delivered, through the state treasurer if delivered to a fiscal agent other than the
6 state treasurer, to the state auditor who shall destroy them and deliver to the state
7 treasurer a certificate to that effect.

8 (9) APPROPRIATION OBLIGATIONS AS LEGAL INVESTMENTS. Any of the following may
9 legally invest any sinking funds, moneys, or other funds belonging to them or under
10 their control in any appropriation obligations issued under this section:

11 (a) The state, the investment board, public officers, municipal corporations,
12 political subdivisions, and public bodies.

13 (b) Banks and bankers, savings and loan associations, credit unions, trust
14 companies, savings banks and institutions, investment companies, insurance
15 companies, insurance associations, and other persons carrying on a banking or
16 insurance business.

17 (c) Personal representatives, guardians, trustees, and other fiduciaries.

18 (10) MORAL OBLIGATION PLEDGE. Recognizing its moral obligation to do so, the
19 legislature expresses its expectation and aspiration that it shall make timely
20 appropriations from moneys in the general fund that are sufficient to pay the
21 principal and interest ~~costs~~ ^{on} any appropriation obligations that are ~~incurred~~ ^{incurred} in any
22 year.

23 SECTION 3. 20.505 (1) (br) of the statutes is created to read:

due with respect to ✓

1 20.505 (1) (br) *Appropriation obligations repayment.* The amounts in the
2 schedule to pay debt service costs due in the current fiscal year on appropriation
3 obligations issued under s. 16.527.

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

4 **SECTION 4.** 20.505 (1) (iq) of the statutes is created to read:

5 20.505 (1) (iq) *Appropriation obligation proceeds.* All moneys received as
6 proceeds from appropriation obligations that are issued under s. 16.527 to pay part
7 or all of the state's unfunded prior service liability under s. 40.05 (2) (b), as
8 determined by the department of administration, and to provide for reserves and for
9 expenses of issuance and administration of the appropriation obligations, and any
10 related obligations incurred under agreements entered into under s. 16.527 (4) (e).
11 Estimated disbursements under this paragraph shall not be included in the schedule
12 under s. 20.005.

13

(END)

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NO \$ PAYMENTS received with respect to an agreement or ancillary arrangement shall be credited to a program revenue appropriation account in the general fund.

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¶(g) The state shall not be generally liable on evidences of appropriation obligation[✓] and evidences of appropriation obligation shall not be a debt of the state for any purpose whatsoever. Evidences of appropriation obligation, including the principal thereof and interest thereon, shall be payable only from amounts that the legislature may, from year to year, appropriate for the payment thereof.

(end ins 5-21)

DOA:.....Hoadley - BB0380, Payment of unfunded prior service liability
under the Wisconsin Retirement System

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE FINANCE

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes DOA to issue appropriation obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. Under the bill, an appropriation obligation is an undertaking by the state to repay a certain amount of borrowed money that is payable from moneys annually appropriated by law for debt service due in that year. The bill also provides that an appropriation obligation is not public debt and that the state is only required to repay in debt service costs in each fiscal year an amount that is actually appropriated for

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Any

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Now
conforms
to
18.55(b)
as proposed
in
LRB
1932

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(g) The state shall not be generally liable on evidences of appropriation
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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1016/5 6
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RMR

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FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

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debt service costs in that fiscal year. If moneys are not appropriated in any fiscal year for the payment of debt service costs, the state is not obligated to pay the debt service costs incurred in that fiscal year. The bill, however, does contain a “moral obligation” pledge, in which the legislature, recognizing its moral obligation to do so, expresses its expectation and aspiration that it will make timely appropriations from moneys in the general fund sufficient to pay the principal and interest costs on any appropriation obligations that are incurred in any year.

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:

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13 and determines that it is in the public interest for the state to issue appropriation
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1 (a) “Appropriation obligation” means an undertaking by the state to repay a
2 certain amount of borrowed money that is all of the following:

3 1. Payable from moneys annually appropriated by law for debt service due with
4 respect to such undertaking in that year.

5 2. Used for the purpose of paying part or all of the state’s unfunded prior service
6 liability under s. 40.05 (2) (b).

7 3. Not public debt under s. 18.01 (4).

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9 appropriation obligation.

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14 authority, under this section.

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19 defeased under a cash optimization program administered by the building
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24 accrued or funded interest, to pay the costs of credit enhancement, or to make
25 payments under other agreements entered into under sub. (4) (e).

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8 maturity or upon redemption prior to maturity.

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13 the obligation becomes due for payment if payment is made or duly provided for, but
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18 (d) All money borrowed by the state pursuant to evidences of appropriation
19 obligation issued under this section shall be lawful money of the United States, and
20 all appropriation obligations shall be payable in such money.

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22 obligations and at any time thereafter so long as the appropriation obligations are
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24 arrangements relating to the appropriation obligations, including trust indentures,
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17 of appropriation obligation bearing the manual or facsimile signature of a person in
18 office at the time such signature was signed or imprinted shall be fully valid
19 notwithstanding that before or after the delivery thereof such person ceased to hold
20 such office.

21 (c) Every evidence of appropriation obligation shall be dated not later than the
22 date issued, shall contain a reference by date to the appropriate authorizing
23 certification, shall state the limitation established in sub. (4) (g), and shall be in
24 accordance with the authorizing certification.

1 (d) An evidence of appropriation obligation shall be in such form and contain
2 such statements or terms as determined by the department, and may not conflict
3 with law or with the appropriate authorizing certification.

4 (7) REFUNDING OBLIGATIONS. (a) 1. The department may authorize the issuance
5 of appropriation obligation refunding obligations. Refunding obligations may be
6 issued, subject to any contract rights vested in owners of obligations being
7 refinanced, to refinance all or any part of one or more issue of obligations
8 notwithstanding that the obligations may have been issued at different times. The
9 principal amount of the refunding obligations may not exceed the sum of: the
10 principal amount of the obligations being refinanced; applicable redemption
11 premiums; unpaid interest on the obligations to the date of delivery or exchange of
12 the refunding obligations; in the event the proceeds are to be deposited in trust as
13 provided in par. (c), interest to accrue on the obligations from the date of delivery to
14 the date of maturity or to the redemption date selected by the department, whichever
15 is earlier; and the expenses incurred in the issuance of the refunding obligations and
16 the payment of the obligations.

17 2. A determination by the department that a refinancing is advantageous or
18 that any of the amounts provided subd. 1. should be included in the refinancing shall
19 be conclusive.

20 (b) If the department determines to exchange refunding obligations, they may
21 be exchanged privately for and in payment and discharge of any of the outstanding
22 obligations being refinanced. Refunding obligations may be exchanged for such
23 principal amount of the obligations being exchanged therefor as may be determined
24 by the department to be necessary or advisable. The owners of the obligations being
25 refunded who elect to exchange need not pay accrued interest on the refunding

1 obligations if and to the extent that interest is accrued and unpaid on the obligations
2 being refunded and to be surrendered. If any of the obligations to be refinanced are
3 to be called for redemption, the department shall determine which redemption dates
4 are to be used, if more than one date is applicable and shall, prior to the issuance of
5 the refunding obligations, provide for notice of redemption to be given in the manner
6 and at the times required by the certification authorizing the outstanding
7 obligations.

8 (c) 1. The principal proceeds from the sale of any refunding obligations shall
9 be applied either to the immediate payment and retirement of the obligations being
10 refinanced or, if the obligations have not matured and are not presently redeemable,
11 to the creation of a trust for and shall be pledged to the payment of the obligations
12 being refinanced.

13 2. If a trust is created, a separate deposit shall be made for each issue of
14 appropriation obligations being refinanced. Each deposit shall be with the state
15 treasurer or a bank or trust company that is a member of the Federal Deposit
16 Insurance Corporation. If the total amount of any deposit, including money other
17 than sale proceeds but legally available for such purpose, is less than the principal
18 amount of the obligations being refinanced and for the payment of which the deposit
19 has been created and pledged, together with applicable redemption premiums and
20 interest accrued and to accrue to maturity or to the date of redemption, then the
21 application of the sale proceeds shall be legally sufficient only if the money deposited
22 is invested in securities issued by the United States or one of its agencies, or
23 securities fully guaranteed by the United States, and only if the principal amount
24 of the securities at maturity and the income therefrom to maturity will be sufficient
25 and available, without the need for any further investment or reinvestment, to pay

1 at maturity or upon redemption the principal amount of the obligations being
2 refinanced together with applicable redemption premiums and interest accrued and
3 to accrue to maturity or to the date of redemption. The income from the principal
4 proceeds of the securities shall be applied solely to the payment of the principal of
5 and interest and redemption premiums on the obligations being refinanced, but
6 provision may be made for the pledging and disposition of any surplus.

7 3. Nothing in this paragraph may be construed as a limitation on the duration
8 of any deposit in trust for the retirement of obligations being refinanced that have
9 not matured and that are not presently redeemable. Nothing in this paragraph may
10 be construed to prohibit reinvestment of the income of a trust if the reinvestments
11 will mature at such times that sufficient cash will be available to pay interest,
12 applicable premiums, and principal on the obligations being refinanced.

13 (8) FISCAL REGULATIONS. (a) The state treasurer shall act as registrar for each
14 evidence of appropriation obligation. No transfer of a registered evidence of
15 appropriation obligation is valid unless made on a register maintained by the state
16 treasurer, and the state may treat the registered owner as the owner of the
17 instrument for all purposes. Payments of principal and interest shall be by electronic
18 funds transfer, check, share draft, or other draft to the registered owner at the
19 owner's address as it appears on the register, unless the department has otherwise
20 provided. Information in the register is not available for inspection and copying
21 under s. 19.35 (1). The department may make any other provision respecting
22 registration as it considers necessary or useful. The state treasurer may enter into
23 a contract for the performance of any of his or her functions relating to appropriation
24 obligations.

1 (b) The state treasurer, or the treasurer's agent, shall maintain records
2 containing a full and correct description of each evidence of appropriation obligation
3 issued, identifying it, and showing its date, issue, amount, interest rate, payment
4 dates, payments made, registration, destruction, and every other relevant
5 transaction.

6 (c) The secretary may appoint one or more trustees and fiscal agents for each
7 issue of appropriation obligations. The state treasurer may be denominated the
8 trustee and the sole fiscal agent or a cofiscal agent for any issue of appropriation
9 obligations. Every other fiscal agent shall be an incorporated bank or trust company
10 authorized by the laws of the United States or of the state in which it is located to
11 do a banking or trust company business. There may be deposited with a trustee, in
12 a special account, moneys to be used only for the purposes expressly provided in the
13 certification authorizing the issuance of evidences of appropriation obligation or an
14 agreement between the department and the trustee. The department may make
15 other provisions respecting trustees and fiscal agents as the department considers
16 necessary or useful and may enter into a contract with any trustee or fiscal agent
17 containing such terms, including compensation, and conditions in regard to the
18 trustee or fiscal agent as the department considers necessary or useful.

19 (d) If any evidence of appropriation obligation is destroyed, lost, or stolen, the
20 department shall execute and deliver a new evidence of appropriation obligation,
21 upon filing with the department evidence satisfactory to the department that the
22 evidence of appropriation obligation has been destroyed, lost, or stolen, upon
23 providing proof of ownership thereof, and upon furnishing the department with
24 indemnity satisfactory to it and complying with such other rules of the department
25 and paying any expenses that the department or the state treasurer may incur. The

1 department shall cancel the evidences of appropriation obligation surrendered to the
2 department.

3 (e) Unless otherwise directed by the department, every evidence of
4 appropriation obligation paid or otherwise retired shall be marked “canceled” and
5 delivered, through the state treasurer if delivered to a fiscal agent other than the
6 state treasurer, to the state auditor who shall destroy them and deliver to the state
7 treasurer a certificate to that effect.

8 (9) APPROPRIATION OBLIGATIONS AS LEGAL INVESTMENTS. Any of the following may
9 legally invest any sinking funds, moneys, or other funds belonging to them or under
10 their control in any appropriation obligations issued under this section:

11 (a) The state, the investment board, public officers, municipal corporations,
12 political subdivisions, and public bodies.

13 (b) Banks and bankers, savings and loan associations, credit unions, trust
14 companies, savings banks and institutions, investment companies, insurance
15 companies, insurance associations, and other persons carrying on a banking or
16 insurance business.

17 (c) Personal representatives, guardians, trustees, and other fiduciaries.

18 (10) MORAL OBLIGATION PLEDGE. Recognizing its moral obligation to do so, the
19 legislature expresses its expectation and aspiration that it shall make timely
20 appropriations from moneys in the general fund that are sufficient to pay the
21 principal and interest due with respect to any appropriation obligations in any year.

22 SECTION 3. 20.505 (1) (br) of the statutes is created to read:

23 20.505 (1) (br) *Appropriation obligations repayment.* The amounts in the
24 schedule to pay debt service costs due in the current fiscal year on appropriation
25 obligations issued under s. 16.527.

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

1 SECTION 4. 20.505 (1) (iq) of the statutes is created to read:

2 20.505 (1) (iq) *Appropriation obligation proceeds.* All moneys received as
3 proceeds from appropriation obligations that are issued under s. 16.527 to pay part
4 or all of the state's unfunded prior service liability under s. 40.05 (2) (b), as
5 determined by the department of administration, and to provide for reserves and for
6 expenses of issuance and administration of the appropriation obligations, and any
7 related obligations incurred under agreements entered into under s. 16.527 (4) (e).
8 Estimated disbursements under this paragraph shall not be included in the schedule
9 under s. 20.005.

10 (END)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1016/6
RAC:jld&kmg:jf

DOA:.....Hoadley – BB0380, Payment of unfunded prior service liability
under the Wisconsin Retirement System

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE FINANCE

Under current law, participating employers in the Wisconsin Retirement System (WRS) are required to make employer contributions to fund the retirement benefits provided to participants in the WRS. Among the contributions that participating employers must make are contributions to pay any unfunded prior service liability resulting, generally, from prior creditable service or benefit improvements retroactively granted to participating employees in the WRS. Currently, the payment of unfunded prior service liability under the WRS is amortized as a level percent of payroll over a period of 40 years and is scheduled to be fully paid in 2030.

This bill authorizes DOA to issue appropriation obligations in an amount up to \$750,000,000 to pay the state's unfunded prior service liability under the WRS. Under the bill, an appropriation obligation is an undertaking by the state to repay a certain amount of borrowed money that is payable from moneys annually appropriated by law for debt service due in that year. The bill also provides that an appropriation obligation is not public debt and that the state is only required to repay in debt service costs in each fiscal year an amount that is actually appropriated for

debt service costs in that fiscal year. If moneys are not appropriated in any fiscal year for the payment of debt service costs, the state is not obligated to pay the debt service costs incurred in that fiscal year. The bill, however, does contain a “moral obligation” pledge, in which the legislature, recognizing its moral obligation to do so, expresses its expectation and aspiration that it will make timely appropriations from moneys in the general fund sufficient to pay the principal and interest costs on any appropriation obligations that are incurred in any year.

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.** 13.40 (3) (b) of the statutes is amended to read:

2 13.40 (3) (b) An appropriation to honor a moral obligation undertaken
3 pursuant to ss. 16.523 (8), 16.526 (8), 16.527 (10), 18.61 (5), 85.25 (5), 101.143 (9m)
4 (i), 229.50 (7), 229.74 (7), 229.830 (7), 234.15 (4), 234.42 (4), 234.54 (4) (b), 234.626
5 (7), 234.93 (6), 234.932 (6), 234.933 (6), and 281.59 (13m).

 ***NOTE: This is reconciled s. 13.40 (3) (b). This SECTION has been affected by drafts with the following LRB numbers: LRB-1016, LRB-0854, and LRB-1797.

6 **SECTION 2.** 16.527 of the statutes is created to read:

7 **16.527 Retirement of state’s unfunded prior service liability under the**
8 **Wisconsin Retirement System; appropriation obligations. (1) LEGISLATIVE**
9 **FINDING AND DETERMINATION.** Recognizing that the state, by prepaying part or all of
10 the state’s unfunded prior service liability under s. 40.05 (2) (b), may reduce its costs
11 and better ensure the timely and full payment of retirement benefits to participants
12 and their beneficiaries under the Wisconsin Retirement System, the legislature finds
13 and determines that it is in the public interest for the state to issue appropriation
14 obligations to pay part or all of the state’s unfunded prior service liability under s.
15 40.05 (2) (b).

16 **(2) DEFINITIONS.** In this section:

1 (a) “Appropriation obligation” means an undertaking by the state to repay a
2 certain amount of borrowed money that is all of the following:

3 1. Payable from moneys annually appropriated by law for debt service due with
4 respect to such undertaking in that year.

5 2. Used for the purpose of paying part or all of the state’s unfunded prior service
6 liability under s. 40.05 (2) (b).

7 3. Not public debt under s. 18.01 (4).

8 (b) “Evidence of appropriation obligation” means a written promise to pay an
9 appropriation obligation.

10 (c) “Refunding obligation” means an appropriation obligation contracted to
11 fund or refund all or any part of one or more outstanding appropriation obligations.

12 **(3) AUTHORIZATION OF APPROPRIATION OBLIGATIONS.** (a) The department shall
13 have all powers necessary and convenient to carry out its duties, and exercise its
14 authority, under this section.

15 (b) 1. Subject to the limitation under subd. 2., the department may contract
16 appropriation obligations of the state under this section.

17 2. Appropriation obligations issued under this section may not exceed
18 \$750,000,000 in principal amount, excluding any obligations that have been
19 defeased under a cash optimization program administered by the building
20 commission. In addition to this limit on principal amount, the department may
21 contract appropriation obligations as the department determines is desirable to fund
22 or refund outstanding appropriation obligations issued under this section, to pay
23 issuance or administrative expenses, to make deposits to reserve funds, to pay
24 accrued or funded interest, to pay the costs of credit enhancement, or to make
25 payments under other agreements entered into under sub. (4) (e).

1 (4) TERMS. (a) Money may be borrowed and evidences of appropriation
2 obligation issued therefor pursuant to one or more written authorizing certifications
3 under sub. (5), unless otherwise provided in the certification, at any time, in any
4 specific amounts, at any rates of interest, for any term, payable at any intervals, at
5 any place, in any manner, and having any other terms or conditions that the
6 department considers necessary or useful. Appropriation obligations may bear
7 interest at variable or fixed rates, bear no interest, or bear interest payable only at
8 maturity or upon redemption prior to maturity.

9 (b) The department may authorize evidences of appropriation obligation
10 having any provisions for prepayment considered necessary or useful, including the
11 payment of any premium.

12 (c) Interest shall cease to accrue on an appropriation obligation on the date that
13 the obligation becomes due for payment if payment is made or duly provided for, but
14 the obligation and accrued interest shall continue to be a binding obligation
15 according to its terms until 6 years overdue for payment, or such longer period as may
16 be required by federal law. At that time, unless demand for its payment has been
17 made, it shall be extinguished and considered no longer outstanding.

18 (d) All money borrowed by the state pursuant to evidences of appropriation
19 obligation issued under this section shall be lawful money of the United States, and
20 all appropriation obligations shall be payable in such money.

21 (e) At the time of, or in anticipation of, contracting for the appropriation
22 obligations and at any time thereafter so long as the appropriation obligations are
23 outstanding, the department may enter into agreements and ancillary
24 arrangements relating to the appropriation obligations, including trust indentures,
25 liquidity facilities, remarketing or dealer agreements, letter of credit agreements,

1 insurance policies, guaranty agreements, reimbursement agreements, indexing
2 agreements, or interest exchange agreements. Any payments made or received
3 pursuant to any such agreement or ancillary arrangement shall be made from or
4 deposited into a program revenue appropriation account in the general fund.

5 (f) All evidences of appropriation obligation owned or held by any state fund are
6 outstanding in all respects and the state agency controlling the fund shall have the
7 same rights with respect to an evidence of appropriation obligation as a private party,
8 but if any sinking fund acquires evidences of appropriation obligation that gave rise
9 to such fund, the obligations are considered paid for all purposes and no longer
10 outstanding and shall be canceled as provided in sub. (8) (e). All evidences of
11 appropriation obligation owned by any state fund shall be registered to the fullest
12 extent registrable.

13 (g) The state shall not be generally liable on evidences of appropriation
14 obligation and evidences of appropriation obligation shall not be a debt of the state
15 for any purpose whatsoever. Evidences of appropriation obligation, including the
16 principal thereof and interest thereon, shall be payable only from amounts that the
17 legislature may, from year to year, appropriate for the payment thereof.

18 (5) PROCEDURES. (a) No evidence of appropriation obligation may be issued by
19 the state unless the issuance is pursuant to a written authorizing certification. The
20 certification shall set forth the aggregate principal amount of appropriation
21 obligations authorized thereby, the manner of sale of the evidences of appropriation
22 obligation, and the form and terms thereof. The certification shall be signed by the
23 secretary, or his or her designee, and shall be transmitted to the governor and the
24 state treasurer.

1 (b) Appropriation obligations may be sold at either public or private sale and
2 may be sold at any price or percentage of par value. The department may provide
3 in any authorizing certification for refunding obligations under sub. (7) that they be
4 exchanged privately in payment and discharge of any of the outstanding obligations
5 being refinanced. All appropriation obligations sold at public sale shall be noticed
6 as provided in the authorizing certification. Any bid received at public sale may be
7 rejected.

8 **(6) FORM.** (a) Evidences of appropriation obligation may be in the form of
9 bonds, notes, or other evidences of obligation, and may be issued in book-entry form
10 or in certificated form. Notwithstanding s. 403.104 (1), every evidence of
11 appropriation obligation is a negotiable instrument.

12 (b) Every evidence of appropriation obligation shall be executed in the name
13 of and for the state by the governor and the state treasurer and shall be sealed with
14 the great seal of the state or a facsimile thereof. The facsimile signature of either the
15 governor or state treasurer, or both, may be imprinted in lieu of the manual signature
16 of such officer, as the department directs, if approved by such officer. An evidence
17 of appropriation obligation bearing the manual or facsimile signature of a person in
18 office at the time such signature was signed or imprinted shall be fully valid
19 notwithstanding that before or after the delivery thereof such person ceased to hold
20 such office.

21 (c) Every evidence of appropriation obligation shall be dated not later than the
22 date issued, shall contain a reference by date to the appropriate authorizing
23 certification, shall state the limitation established in sub. (4) (g), and shall be in
24 accordance with the authorizing certification.

1 (d) An evidence of appropriation obligation shall be in such form and contain
2 such statements or terms as determined by the department, and may not conflict
3 with law or with the appropriate authorizing certification.

4 (7) REFUNDING OBLIGATIONS. (a) 1. The department may authorize the issuance
5 of appropriation obligation refunding obligations. Refunding obligations may be
6 issued, subject to any contract rights vested in owners of obligations being
7 refinanced, to refinance all or any part of one or more issue of obligations
8 notwithstanding that the obligations may have been issued at different times. The
9 principal amount of the refunding obligations may not exceed the sum of: the
10 principal amount of the obligations being refinanced; applicable redemption
11 premiums; unpaid interest on the obligations to the date of delivery or exchange of
12 the refunding obligations; in the event the proceeds are to be deposited in trust as
13 provided in par. (c), interest to accrue on the obligations from the date of delivery to
14 the date of maturity or to the redemption date selected by the department, whichever
15 is earlier; and the expenses incurred in the issuance of the refunding obligations and
16 the payment of the obligations.

17 2. A determination by the department that a refinancing is advantageous or
18 that any of the amounts provided subd. 1. should be included in the refinancing shall
19 be conclusive.

20 (b) If the department determines to exchange refunding obligations, they may
21 be exchanged privately for and in payment and discharge of any of the outstanding
22 obligations being refinanced. Refunding obligations may be exchanged for such
23 principal amount of the obligations being exchanged therefor as may be determined
24 by the department to be necessary or advisable. The owners of the obligations being
25 refunded who elect to exchange need not pay accrued interest on the refunding

1 obligations if and to the extent that interest is accrued and unpaid on the obligations
2 being refunded and to be surrendered. If any of the obligations to be refinanced are
3 to be called for redemption, the department shall determine which redemption dates
4 are to be used, if more than one date is applicable and shall, prior to the issuance of
5 the refunding obligations, provide for notice of redemption to be given in the manner
6 and at the times required by the certification authorizing the outstanding
7 obligations.

8 (c) 1. The principal proceeds from the sale of any refunding obligations shall
9 be applied either to the immediate payment and retirement of the obligations being
10 refinanced or, if the obligations have not matured and are not presently redeemable,
11 to the creation of a trust for and shall be pledged to the payment of the obligations
12 being refinanced.

13 2. If a trust is created, a separate deposit shall be made for each issue of
14 appropriation obligations being refinanced. Each deposit shall be with the state
15 treasurer or a bank or trust company that is a member of the Federal Deposit
16 Insurance Corporation. If the total amount of any deposit, including money other
17 than sale proceeds but legally available for such purpose, is less than the principal
18 amount of the obligations being refinanced and for the payment of which the deposit
19 has been created and pledged, together with applicable redemption premiums and
20 interest accrued and to accrue to maturity or to the date of redemption, then the
21 application of the sale proceeds shall be legally sufficient only if the money deposited
22 is invested in securities issued by the United States or one of its agencies, or
23 securities fully guaranteed by the United States, and only if the principal amount
24 of the securities at maturity and the income therefrom to maturity will be sufficient
25 and available, without the need for any further investment or reinvestment, to pay

1 at maturity or upon redemption the principal amount of the obligations being
2 refinanced together with applicable redemption premiums and interest accrued and
3 to accrue to maturity or to the date of redemption. The income from the principal
4 proceeds of the securities shall be applied solely to the payment of the principal of
5 and interest and redemption premiums on the obligations being refinanced, but
6 provision may be made for the pledging and disposition of any surplus.

7 3. Nothing in this paragraph may be construed as a limitation on the duration
8 of any deposit in trust for the retirement of obligations being refinanced that have
9 not matured and that are not presently redeemable. Nothing in this paragraph may
10 be construed to prohibit reinvestment of the income of a trust if the reinvestments
11 will mature at such times that sufficient cash will be available to pay interest,
12 applicable premiums, and principal on the obligations being refinanced.

13 (8) FISCAL REGULATIONS. (a) The state treasurer shall act as registrar for each
14 evidence of appropriation obligation. No transfer of a registered evidence of
15 appropriation obligation is valid unless made on a register maintained by the state
16 treasurer, and the state may treat the registered owner as the owner of the
17 instrument for all purposes. Payments of principal and interest shall be by electronic
18 funds transfer, check, share draft, or other draft to the registered owner at the
19 owner's address as it appears on the register, unless the department has otherwise
20 provided. Information in the register is not available for inspection and copying
21 under s. 19.35 (1). The department may make any other provision respecting
22 registration as it considers necessary or useful. The state treasurer may enter into
23 a contract for the performance of any of his or her functions relating to appropriation
24 obligations.

1 (b) The state treasurer, or the treasurer's agent, shall maintain records
2 containing a full and correct description of each evidence of appropriation obligation
3 issued, identifying it, and showing its date, issue, amount, interest rate, payment
4 dates, payments made, registration, destruction, and every other relevant
5 transaction.

6 (c) The secretary may appoint one or more trustees and fiscal agents for each
7 issue of appropriation obligations. The state treasurer may be denominated the
8 trustee and the sole fiscal agent or a cofiscal agent for any issue of appropriation
9 obligations. Every other fiscal agent shall be an incorporated bank or trust company
10 authorized by the laws of the United States or of the state in which it is located to
11 do a banking or trust company business. There may be deposited with a trustee, in
12 a special account, moneys to be used only for the purposes expressly provided in the
13 certification authorizing the issuance of evidences of appropriation obligation or an
14 agreement between the department and the trustee. The department may make
15 other provisions respecting trustees and fiscal agents as the department considers
16 necessary or useful and may enter into a contract with any trustee or fiscal agent
17 containing such terms, including compensation, and conditions in regard to the
18 trustee or fiscal agent as the department considers necessary or useful.

19 (d) If any evidence of appropriation obligation is destroyed, lost, or stolen, the
20 department shall execute and deliver a new evidence of appropriation obligation,
21 upon filing with the department evidence satisfactory to the department that the
22 evidence of appropriation obligation has been destroyed, lost, or stolen, upon
23 providing proof of ownership thereof, and upon furnishing the department with
24 indemnity satisfactory to it and complying with such other rules of the department
25 and paying any expenses that the department or the state treasurer may incur. The

1 department shall cancel the evidences of appropriation obligation surrendered to the
2 department.

3 (e) Unless otherwise directed by the department, every evidence of
4 appropriation obligation paid or otherwise retired shall be marked “canceled” and
5 delivered, through the state treasurer if delivered to a fiscal agent other than the
6 state treasurer, to the state auditor who shall destroy them and deliver to the state
7 treasurer a certificate to that effect.

8 (9) APPROPRIATION OBLIGATIONS AS LEGAL INVESTMENTS. Any of the following may
9 legally invest any sinking funds, moneys, or other funds belonging to them or under
10 their control in any appropriation obligations issued under this section:

11 (a) The state, the investment board, public officers, municipal corporations,
12 political subdivisions, and public bodies.

13 (b) Banks and bankers, savings and loan associations, credit unions, trust
14 companies, savings banks and institutions, investment companies, insurance
15 companies, insurance associations, and other persons carrying on a banking or
16 insurance business.

17 (c) Personal representatives, guardians, trustees, and other fiduciaries.

18 (10) MORAL OBLIGATION PLEDGE. Recognizing its moral obligation to do so, the
19 legislature expresses its expectation and aspiration that it shall make timely
20 appropriations from moneys in the general fund that are sufficient to pay the
21 principal and interest due with respect to any appropriation obligations in any year.

22 SECTION 3. 20.505 (1) (br) of the statutes is created to read:

23 20.505 (1) (br) *Appropriation obligations repayment.* The amounts in the
24 schedule to pay debt service costs due in the current fiscal year on appropriation
25 obligations issued under s. 16.527.

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

1 **SECTION 4.** 20.505 (1) (iq) of the statutes is created to read:

2 20.505 (1) (iq) *Appropriation obligation proceeds.* All moneys received as
3 proceeds from appropriation obligations that are issued under s. 16.527 to pay part
4 or all of the state's unfunded prior service liability under s. 40.05 (2) (b), as
5 determined by the department of administration, and to provide for reserves and for
6 expenses of issuance and administration of the appropriation obligations, and any
7 related obligations incurred under agreements entered into under s. 16.527 (4) (e).
8 Estimated disbursements under this paragraph shall not be included in the schedule
9 under s. 20.005.

10

(END)