SECTION 1863d. 77.71 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and .... (this act), is repealed and recreated to read:

77.71 **(4)** An excise tax is imposed at the rates under s. 77.70 in the case of a county tax, at the rate under s. 77.708 in the case of a transit authority tax, or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the purchase price upon every person storing, using, or otherwise consuming a motor vehicle, boat, recreational vehicle, as defined in s. 340.01 (48r), or aircraft, if that property must be registered or titled with this state and if that property is to be customarily kept in a county that has in effect an ordinance under s. 77.70, the jurisdictional area of a transit authority that has in effect a resolution under s. 77.708, or in a special district that has in effect a resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local sales tax in another state on a purchase of the same property that tax shall be credited against the tax under this subsection.

SECTION 1864. 77.73 (1) and (2) of the statutes are amended to read:

77.73 **(1)** Retailers making deliveries in their company–operated vehicles of tangible personal property, or of property on which taxable services were performed, to purchasers in a county ~~or~~, special district, or transit authority's jurisdictional area are doing business in that county ~~or~~, special district, or jurisdictional area, and that county ~~or~~, special district, or transit authority has jurisdiction to impose the taxes under this subchapter on them.

(2) Counties ~~and~~, special districts, and transit authorities do not have jurisdiction to impose the tax under s. 77.71 (2) in regard to tangible personal property purchased in a sale that is consummated in another county or special district in this state, or in another transit authority's jurisdictional area, that does not have in effect an ordinance or resolution imposing the taxes under this subchapter and later brought by the buyer into the county ~~or~~, special district, or jurisdictional area of the transit authority that has imposed a tax under s. 77.71 (2).

SECTION 1864b. 77.73 (1) of the statutes, as affected by 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

77.73 **(1)** Retailers making deliveries in their company–operated vehicles of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) on which taxable services were performed, to purchasers in a county, special district, or transit authority's jurisdictional area are doing business in that county, special district, or jurisdictional area, and that county, special district, or transit authority has jurisdiction to impose the taxes under this subchapter on them.

SECTION 1864d. 77.73 (2) of the statutes, as affected by 2009 Wisconsin Acts 2 and .... (this act), is repealed and recreated to read:

77.73 **(2)** Counties, special districts, and transit authorities do not have jurisdiction to impose the tax under s. 77.71 (2) in regard to items, property, and goods under s. 77.52 (1) (b), (c), and (d), and tangible personal property, except snowmobiles, trailers, semitrailers, and all–terrain vehicles, purchased in a sale that is consummated in another county or special district in this state, or in another transit authority's jurisdictional area, that does not have in effect an ordinance or resolution imposing the taxes under this subchapter and later brought by the buyer into the county, special district, or jurisdictional area of the transit authority that has imposed a tax under s. 77.71 (2).

SECTION 1864m. 77.73 (3) of the statutes, as created by 2009 Wisconsin Act 2, is amended to read:

77.73 **(3)** Counties ~~and~~, special districts, and transit authorities have jurisdiction to impose the taxes under this subchapter on retailers who file, or who are required to file, an application under s. 77.52 (7) or who register, or who are required to register, under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged in business in the county ~~or~~, special district, or transit authority's jurisdictional area, as provided in s. 77.51 (13g). A retailer who files, or is required to file, an application under s. 77.52 (7) or who registers, or is required to register, under s. 77.53 (9) or (9m) shall collect, report, and remit to the department the taxes imposed under this subchapter for all counties ~~and~~, special districts, and transit authorities that have an ordinance or resolution imposing the taxes under this subchapter.

SECTION 1865. 77.75 of the statutes is amended to read:

77.75 Reports. Every person subject to county, transit authority, or special district sales and use taxes shall, for each reporting period, record that person's sales made in the county ~~or~~, special district, or jurisdictional area of a transit authority that has imposed those taxes separately from sales made elsewhere in this state and file a report of the measure of the county, transit authority, or special district sales and use taxes and the tax due thereon separately.

SECTION 1865d. 77.75 of the statutes, as affected by 2009 Wisconsin Acts 2 and .... (this act), is repealed and recreated to read:

77.75 Reports. Every person subject to county, transit authority, or special district sales and use taxes shall, for each reporting period, record that person's sales made in the county, special district, or jurisdictional area of a transit authority that has imposed those taxes separately from sales made elsewhere in this state and file a report as prescribed by the department of revenue.

SECTION 1866. 77.76 (1) of the statutes is amended to read:

77.76 **(1)** The department of revenue shall have full power to levy, enforce, and collect county, transit authority, and special district sales and use taxes and may take any action, conduct any proceeding, impose interest and penalties, and in all respects proceed as it is authorized to proceed for the taxes imposed by subch. III. The department of transportation and the department of natural resources may administer the county, transit authority, and special district sales and use taxes in regard to items under s. 77.61 (1).

SECTION 1867. 77.76 (2) of the statutes is amended to read:

77.76 **(2)** Judicial and administrative review of departmental determinations shall be as provided in subch. III for state sales and use taxes, and no county, transit authority, or special district may intervene in any matter related to the levy, enforcement, and collection of the taxes under this subchapter.

SECTION 1868. 77.76 (3r) of the statutes is created to read:

77.76 **(3r)** From the appropriation under s. 20.835 (4) (gc) the department of revenue shall distribute 98.5 percent of the taxes reported for each transit authority that has imposed taxes under this subchapter, minus the transit authority portion of the retailers' discount, to the transit authority no later than the end of the 3rd month following the end of the calendar quarter in which such amounts were reported. At the time of distribution the department of revenue shall indicate the taxes reported by each taxpayer. In this subsection, the "transit authority portion of the retailers' discount" is the amount determined by multiplying the total retailers' discount by a fraction the numerator of which is the gross transit authority sales and use taxes payable and the denominator of which is the sum of the gross state and transit authority sales and use taxes payable. The transit authority taxes distributed shall be increased or decreased to reflect subsequent refunds, audit adjustments, and all other adjustments of the transit authority taxes previously distributed. Interest paid on refunds of transit authority sales and use taxes shall be paid from the appropriation under s. 20.835 (4) (gc) at the rate paid by this state under s. 77.60 (1) (a). Any transit authority receiving a report under this subsection is subject to the duties of confidentiality to which the department of revenue is subject under s. 77.61 (5).

SECTION 1869. 77.76 (4) of the statutes is amended to read:

77.76 **(4)** There shall be retained by the state 1.5% of the taxes collected for taxes imposed by special districts under ss. 77.705 and 77.706 and transit authorities under s. 77.708 and 1.75% of the taxes collected for taxes imposed by counties under s. 77.70 to cover costs incurred by the state in administering, enforcing, and collecting the tax. All interest and penalties collected shall be deposited and retained by this state in the general fund.

SECTION 1870. 77.76 (5) of the statutes is created to read:

77.76 **(5)** If a retailer receives notice from the department of revenue that the retailer is required to collect and remit the taxes imposed under s. 77.708, but the retailer believes that the retailer is not required to collect such taxes because the retailer is not doing business within the transit authority's jurisdictional area, the retailer shall notify the department of revenue no later than 30 days after receiving notice from the department. The department of revenue shall affirm or revise its original determination no later than 30 days after receiving the retailer's notice.

SECTION 1871d. 77.77 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 2, is amended to read:

77.77 **(1)** (a) The sales price from services subject to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d), is subject to the taxes under this subchapter, and the incremental amount of tax caused by a rate increase applicable to those services, leases, rentals, or licenses is due, beginning with the first billing period starting on or after the effective date of the county ordinance, special district resolution, transit authority resolution, or rate increase, regardless of whether the service is furnished or the property, item, or good is leased, rented, or licensed to the customer before or after that date.

SECTION 1871e. 77.77 (1) (b) of the statutes, as created by 2009 Wisconsin Act 2, is amended to read:

77.77 **(1)** (b) The sales price from services subject to the tax under s. 77.52 (2) or the lease, rental, or license of tangible personal property and property, items, and goods specified under s. 77.52 (1) (b), (c), and (d), is not subject to the taxes under this subchapter, and a decrease in the tax rate imposed under this subchapter on those services first applies, beginning with bills rendered on or after the effective date of the repeal or sunset of a county ordinance ~~or~~, special district resolution, or transit authority resolution imposing the tax or other rate decrease, regardless of whether the service is furnished or the property, item, or good is leased, rented, or licensed to the customer before or after that date.

SECTION 1871f. 77.77 (3) of the statutes is amended to read:

77.77 **(3)** The sale of building materials to contractors engaged in the business of constructing, altering, repairing or improving real estate for others is not subject to the taxes under this subchapter, and the incremental amount of tax caused by the rate increase applicable to those materials is not due, if the materials are affixed and made a structural part of real estate, and the amount payable to the contractor is fixed without regard to the costs

incurred in performing a written contract that was irrevocably entered into prior to the effective date of the county ordinance, special district resolution, transit authority resolution, or rate increase or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before that date.

SECTION 1872. 77.78 of the statutes is amended to read:

77.78 Registration. No motor vehicle, boat, snowmobile, recreational vehicle, as defined in s. 340.01 (48r), trailer, semitrailer, all–terrain vehicle or aircraft that is required to be registered by this state may be registered or titled by this state unless the registrant files a sales and use tax report and pays the county tax, transit authority tax, and special district tax at the time of registering or titling to the state agency that registers or titles the property. That state agency shall transmit those tax revenues to the department of revenue.

SECTION 1872g. 77.85 of the statutes is amended to read:

77.85 State contribution. The department shall pay before June 30 annually the municipal treasurer, from the appropriation under s. 20.370 (5) (bv), 20 cents for each acre of land in the municipality that is designated as managed forest land under this subchapter and for each acre of land in the municipality that has been withdrawn under s. 77.885 but for which payments under s. 77.84 (2) are being made.

SECTION 1872r. 77.885 of the statutes is created to read:

77.885 Withdrawal of tribal lands. Upon request of an Indian tribe, the department shall order the withdrawal of all land that is owned in fee by that tribe that is designated as managed forest land from the managed forest land program. No withdrawal tax under s. 77.88 (5) or withdrawal fee under s. 77.88 (5m) may be assessed against an Indian tribe for the withdrawal of such land if all of the following apply:

(1) The Indian tribe provides the department, before the date of the withdrawal order, with documentation that demonstrates that the tribe intends to transfer the land to the United States to be held in trust for the tribe.

(2) The tribe and the department have in effect a written agreement under which the tribe agrees that the land shall continue to be treated as managed forest land for purposes of ss. 77.83, 77.84, 77.85, 77.86, 77.87, 77.875, 77.876, 77.89, 77.90, 77.905, and 77.91 until the date on which the managed forest land order would have expired.

SECTION 1873d. 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 2, is amended to read:

77.92 **(4)** "Net business income," with respect to a partnership, means taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and~~ (5k), and (8r); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions from farming. "Net business income," with respect to a natural person, estate, or trust, means profit from a trade or business for federal income tax purposes and includes net income derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 1874. 77.994 (1) (intro.) of the statutes is amended to read:

77.994 **(1)** (intro.) Except as provided in ~~sub.~~ subs. (2) and (3), a municipality or a county all of which is included in a premier resort area under s. 66.1113 may, by ordinance, impose a tax at a rate of 0.5% of the gross receipts from the sale, lease, or rental in the municipality or county of goods or services that are taxable under subch. III made by businesses that are classified in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget, under the following industry numbers:

SECTION 1874b. 77.994 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Acts 2 and .... (this act), is repealed and recreated to read:

77.994 **(1)** (intro.) Except as provided in subs. (2) and (3), a municipality or a county all of which is included in a premier resort area under s. 66.1113 may, by ordinance, impose a tax at a rate of 0.5% of the sales price from the sale, license, lease, or rental in the municipality or county of property, items, goods, or services that are taxable under subch. III made by businesses that are classified in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget, under the following industry numbers:

SECTION 1887. 77.994 (3) of the statutes is created to read:

77.994 **(3)** Any municipality that enacted an ordinance imposing the tax under sub. (1) that became effective before January 1, 2000, may amend the ordinance to increase the tax rate under this section to 1 percent. The amended ordinance is effective on the dates provided under s. 77.9941 (1).

SECTION 1887b. 77.994 (4) of the statutes is created to read:

77.994 **(4)** (a) Except as provided in par. (b), no seller or certified service provider, as defined in s. 77.51 (1g),

is liable for the tax, interest, or penalties imposed under this subchapter on a transaction in which the seller or certified service provider charged and collected the incorrect amount of tax imposed under this subchapter on the sale of a product that was shipped to the purchaser's location within a premier resort area, until such time as a database identifying the addresses subject to each premier resort area tax is available to all sellers and certified service providers.

(b) The relief from liability described in par. (a) does not apply to transactions which are sourced to the seller's place of business under s. 77.522 (1) (b) 1.

SECTION 1888. 77.9941 (1) of the statutes is amended to read:

77.9941 **(1)** The ordinance under s. 77.994 is effective on January 1, April 1, July 1 or October 1. The municipality or county shall deliver a certified copy of that ordinance, or an amended ordinance under s. 77.994 (3), to the secretary of revenue at least 120 days before its effective date.

SECTION 1889d. 77.9951 (2) of the statutes, as affected by 2009 Wisconsin Act 2, is amended to read:

77.9951 **(2)** Sections 77.51 (3r), (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4), (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under subch. III, apply to the fee under this subchapter. The renter shall collect the fee under this subchapter from the person to whom the vehicle is rented.

SECTION 1890m. Subchapter XIII (title) of chapter 77 [precedes 77.9971] of the statutes is amended to read:

CHAPTER 77

SUBCHAPTER XIII

SOUTHEASTERN REGIONAL TRANSIT AUTHORITY FEE

SECTION 1891. 77.9971 of the statutes is renumbered 77.9971 (1) and amended to read:

77.9971 **(1)** ~~A~~ The southeastern regional transit authority under s. 59.58 ~~(6)~~ (7) may impose a fee at a rate not to exceed ~~$2~~ $18, as adjusted under sub. (2), for each transaction in the ~~region, as defined in s. 59.58 (6) (a) 2.,~~ authority's jurisdictional area, as described in s. 59.58 (7) (b), on the rental, but not for rerental and not for rental as a service or repair replacement vehicle, of Type 1 automobiles, as defined in s. 340.01 (4) (a), by establishments primarily engaged in short–term rental of passenger cars without drivers, for a period of 30 days or less, unless the sale is exempt from the sales tax under s. 77.54 (1), (4), (7) (a), (7m), (9), or (9a). The fee imposed under this subchapter shall be effective on the first day of the first month that begins at least 90 days after the ~~governing body~~ board of directors of the southeastern regional transit authority approves the imposition of the fee and notifies the department of revenue. The ~~governing body~~ board of directors shall notify the department of a repeal of the fee imposed under this subchapter at least 60 days before the effective date of the repeal.

SECTION 1891d. 77.9971 (2) of the statutes is created to read:

77.9971 **(2)** (a) The southeastern regional transit authority's board of directors may provide for the annual adjustment of the fee specified in sub. (1) to reflect the average annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12 months ending on September 30 of the year before the adjustment. If the fee is adjusted under this subsection and the adjusted fee is not evenly divisible by $0.25, the adjusted fee shall be rounded to the next highest quarter–dollar amount.

(b) If the fee is adjusted under this subsection, the southeastern regional transit authority shall provide notice to the department of revenue of the fee adjustment at least 90 days before the adjustment becomes effective.

SECTION 1891h. 77.9972 (3) of the statutes is amended to read:

77.9972 **(3)** From the appropriation under s. 20.835 (4) (gh), the department of revenue shall distribute 97.45% of the fees collected under this subchapter ~~for each regional transit authority~~ to ~~that~~ the southeastern regional transit authority and shall indicate to the authority the fees reported by each fee payer in the authority's jurisdiction, no later than the end of the month following the end of the calendar quarter in which the amounts were collected. The fees distributed shall be increased or decreased to reflect subsequent refunds, audit adjustments, and all other adjustments. Interest paid on refunds of the fee under this subchapter shall be paid from the appropriation under s. 20.835 (4) (gh) at the rate under s. 77.60 (1) (a). ~~Any regional transit authority that~~ If the southeastern regional transit authority receives a report along with a payment under this subsection, the southeastern regional transit authority is subject to the duties of confidentiality to which the department of revenue is subject under s. 77.61 (5).

SECTION 1891p. 77.9972 (6) of the statutes is created to read:

77.9972 **(6)** If the department of revenue receives notice of a fee adjustment under s. 77.9971 (2) (b), the department shall publish the new adjusted fee at least 30 days before the adjustment becomes effective.

SECTION 1891t. 77.9973 of the statutes is amended to read:

77.9973 Discontinuation. Retailers and the department of revenue may not collect fees under this subchapter for ~~any regional transit~~ the southeastern regional transit authority after the calendar quarter during which the ~~regional transit~~ southeastern regional transit authority ceases to exist, except that the department may collect from retailers fees that accrued before that calendar quarter and interest and penalties that relate to those fees. If

fees are collected, the authority may use the revenue for any lawful purpose.

SECTION 1893. 79.01 (2d) of the statutes is amended to read:

79.01 (**2d**) There is established an account in the general fund entitled the "County and Municipal Aid Account." Beginning with the distributions in 2011, the total amount to be distributed each year to counties and municipalities from the county and municipal aid account is $824,825,715.

SECTION 1894. 79.02 (4) of the statutes is created to read:

79.02 (**4**) (a) For the payments in 2010, subject to par. (c) 1., the amount of the payment to each county from the county and municipal aid account shall be reduced by an amount determined as follows:

1. Multiply the amount paid to all counties in 2009 from the county and municipal aid account by 0.035.

2. Divide the amount determined in subd. 1. by the value of all property in the state, as determined under s. 70.57.

3. Multiply the property value of the county, as determined under s. 70.57, by the number determined in subd. 2.

(b) For the payments in 2010, subject to par. (c) 2., the amount of the payment to each municipality from the county and municipal aid account shall be reduced by an amount determined as follows:

1. Multiply the amount paid to all municipalities in 2009 from the county and municipal aid account by 0.035.

2. Divide the amount determined in subd. 1. by the value of all property in the state, as determined under s. 70.57.

3. Multiply the property value of the municipality, as determined under s. 70.57, by the number determined in subd. 2.

(c) 1. No payment reduction under par. (a) shall exceed an amount equal to 15 percent of the amount a county would have otherwise received under s. 79.035 in 2010. The department of revenue shall adjust, in proportion to the population of all such counties, the payments of all counties that have reductions of less than 15 percent in order to ensure that no county's payment is reduced by more than 15 percent

2. No payment reduction under par. (b) shall exceed an amount equal to 15 percent of the amount a municipality would have otherwise received under s. 79.035 in 2010. The department of revenue shall adjust, in proportion to the population of all such municipalities, the payments of all municipalities that have reductions of less than 15 percent in order to ensure that no municipality's payment is reduced by more than 15 percent.

SECTION 1895. 79.035 (1) of the statutes is amended to read:

79.035 (**1**) In 2004 and subsequent years, except as provided under s. 79.02 (4), each county and municipality shall receive a payment from the county and municipal aid account and, beginning with payments in November 2009, from the appropriation accounts under s. 20.835 (1) (q) and (r) in an amount determined under sub. (2).

SECTION 1896. 79.04 (1) (a) of the statutes is amended to read:

79.04 (**1**) (a) An amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, the first $125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for "production plant, exclusive of land," "general structures," and "substations," in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within a municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21), as determined by the department of revenue plus an amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, of the first $125,000,000 of the total original cost of production plant, general structures, and substations less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than $125,000,000. The amount distributable to a municipality under this subsection and sub. (6) in any year shall not exceed $300 times the population of the municipality, ~~increased annually by $125 per person beginning in 2009~~ except that, beginning with payments in 2009, the amount distributable to a municipality under this subsection and sub. (6) in any year shall not exceed $425 times the population of the municipality.

SECTION 1897. 79.04 (2) (a) of the statutes is amended to read:

79.04 (**2**) (a) Annually, except for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, and except as provided in sub. (4m), the department of administration, upon certification by the

department of revenue, shall distribute from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., to any county having within its boundaries a production plant, general structure, or substation, used by a light, heat or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the production plant or substation is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant or substation is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first $125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for "production plant, exclusive of land," "general structures," and "substations," in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21), as determined by the department of revenue plus an amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., determined by multiplying by 6 mills in the case of property in a town, and 3 mills in the case of property in a city or village, of the total original cost of production plant, general structures, and substations less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than $125,000,000. The amount distributable to a county under this subsection and sub. (6) in any year shall not exceed $100 times the population of the county, ~~increased annually by $25 per person beginning in 2009~~ except that, beginning with payments in 2009, the amount distributable to a county under this subsection and sub. (6) in any year shall not exceed $125 times the population of the county.

SECTION 1898. 79.043 (4) of the statutes is amended to read:

79.043 (**4**) Except as provided under s. 79.02 (3) (e) and (4), beginning in 2004, and ending in 2010, the total amount to be distributed each year to municipalities from the ~~aid account~~ appropriation accounts under s. 20.835 (1) (db), (q), and (r) is $702,483,300.

SECTION 1899. 79.043 (5) of the statutes is amended to read:

79.043 (**5**) Except as provided under s. 79.02 (3) (e) and (4), for the ~~distribution~~ distributions beginning in 2005 and ~~subsequent years~~ and ending in 2010, each county and municipality shall receive a payment under this section and s. 79.035 that is equal to the amount of the payment determined for the county or municipality under this section and s. 79.035 in 2004.

SECTION 1900. 79.043 (6) of the statutes is created to read:

79.043 (**6**) For the distribution in 2011 and subsequent years, each county and municipality shall receive a payment under this section and s. 79.035 that is equal to the amount of the payment determined for the county or municipality under s. 79.02 (4) in 2010.

SECTION 1900d. 79.05 (1) (am) of the statutes is amended to read:

79.05 (**1**) (am) "Inflation factor" means a percentage equal to the average annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12 months ending on September 30 of the year before the statement under s. 79.015, except that the percentage under this paragraph shall not be less than 3 percent.

SECTION 1900h. 79.05 (2) (c) of the statutes, as affected by 2009 Wisconsin Act 11, is amended to read:

79.05 (**2**) (c) Its municipal budget; exclusive of principal and interest on long–term debt and exclusive of revenue sharing payments under s. 66.0305, recycling fee payments under s. 289.645, unreimbursed expenses related to an emergency declared under s. 166.03 (1) (b) 1., and expenditures from moneys received pursuant to P.L. 111–5; for the year of the statement under s. 79.015 increased over its municipal budget as adjusted under sub. (6); exclusive of principal and interest on long–term debt and exclusive of revenue sharing payments under s. 66.0305, recycling fee payments under s. 289.645, unreimbursed expenses related to an emergency declared under s. 166.03 (1) (b) 1., and expenditures from moneys received pursuant to P.L. 111–5; for the year before that year by less than the sum of the inflation factor and the valuation factor, rounded to the nearest 0.10%.

SECTION 1900k. 79.07 of the statutes is created to read:

79.07 Expenditures for emergency services. (**1**) Except as provided in sub. (3), beginning in 2010, the amount that each county and municipality spends each year for emergency services, as defined by the department of revenue to include only emergency services funded from payments received under ss. 79.035 and 79.043, shall be no less than the amount that the county

or municipality spent in 2009 for emergency services, not including one–time expenses and capital expenditures. Each county and municipality shall report the amount it spent for emergency services in 2009, and the amount of its one–time expenses and capital expenditures, to the department of revenue at the time and in the manner prescribed by the department.

(2) The department of revenue may adjust any amount reported under sub. (1) to more accurately reflect the amount that the county or municipality submitting the report spent for emergency services and to ensure that excluding one–time expenses and capital expenditures as provided in sub. (1) does not compromise the level of service for providing emergency services.

(3) A county or municipality may decrease the amount it spends for emergency services below its 2009 amount, with the department of revenue's approval, if the decrease in expenditures is a result of operating more efficiently, as determined by the department. For purposes of this section, any decrease approved under this subsection shall permanently decrease the base amount of expenses for emergency services provided in the county or municipality requesting the decrease by the amount of the decrease.

(4) If a county or municipality fails to comply with this section, the department of revenue may reduce the county's or municipality's payment under ss. 79.035 and 79.043, in an amount determined by the department.

SECTION 1905. 79.10 (2) (a) of the statutes is amended to read:

79.10 (**2**) (a) On or before December 1 of the year preceding the distribution under sub. (7m) (a) or (cm), the department of revenue shall notify the clerk of each town, village and city of the estimated fair market value, as determined under sub. (11) (c), to be used to calculate the lottery and gaming credit under sub. (5) and of the amount to be distributed to it under sub. (7m) (a) ~~on the following 4th Monday in July~~ or (cm). The anticipated receipt of such distribution shall not be taken into consideration in determining the tax rate of the municipality but shall be applied as tax credits.

SECTION 1906. 79.10 (2) (b) of the statutes is amended to read:

79.10 (**2**) (b) On or before December 1 of the year preceding the distribution under sub. (7m) (c) or (cm), the department of revenue shall notify the clerk of each town, village, and city of the estimated fair market value, as determined under sub. (11) (d), used to calculate the first dollar credit under sub. (5m) and of the amount to be distributed to it under sub. (7m) (c) ~~on the following 4th Monday in July~~ or (cm). The anticipated receipt of such distribution shall not be taken into consideration in determining the tax rate of the municipality but shall be applied as tax credits.

SECTION 1906d. 79.10 (4) of the statutes is amended to read:

79.10 (**4**) SCHOOL LEVY TAX CREDIT. Except as provided in sub. (5m), the ~~amount~~ amounts appropriated under s. 20.835 (3) (b) and (qb) shall be distributed to municipalities in proportion to their share of the sum of average school tax levies for all municipalities.

SECTION 1907. 79.10 (7m) (a) 1. of the statutes is amended to read:

79.10 (**7m**) (a) 1. Except as provided in par. ~~(c)~~ (cm), the amount determined under sub. (4) shall be distributed by the department of administration to the counties on the 4th Monday in July.

SECTION 1908. 79.10 (7m) (a) 2. of the statutes is amended to read:

79.10 (**7m**) (a) 2. Except as provided in par. ~~(c)~~ (cm), the county treasurer shall settle for the amounts distributed under this paragraph on the 4th Monday in July with each municipality and taxing jurisdiction in the county not later than August 20. Failure to settle timely under this subdivision subjects the county treasurer to the penalties under s. 74.31.

SECTION 1909. 79.10 (7m) (b) 1. of the statutes is amended to read:

79.10 (**7m**) (b) 1. Except as provided in par. ~~(c)~~ (cm), the amount determined under sub. (5) with respect to claims filed for which the municipality has furnished notice under sub. (1m) by March 1 shall be distributed from the appropriation under s. 20.835 (3) (q) by the department of administration to the county in which the municipality is located on the 4th Monday in March.

SECTION 1910. 79.10 (7m) (b) 2. of the statutes is amended to read:

79.10 (**7m**) (b) 2. Except as provided in par. ~~(c)~~ (cm), the county treasurer shall settle for the amounts distributed on the 4th Monday in March under this paragraph with each taxation district and each taxing jurisdiction within the taxation district not later than April 15. Failure to settle timely under this subdivision subjects the county treasurer to the penalties under s. 74.31.

SECTION 1911. 79.10 (7m) (c) 1. of the statutes is amended to read:

79.10 (**7m**) (c) 1. ~~The~~ Except as provided in par. (cm), the amount determined under sub. (5m) shall be distributed from the appropriation under s. 20.835 (3) (b) by the department of administration to the counties on the 4th Monday in July.

SECTION 1912. 79.10 (7m) (c) 2. of the statutes is amended to read:

79.10 (**7m**) (c) 2. ~~The town, village, or city~~ Except as provided in par. (cm), the county treasurer shall settle for the amounts distributed on the 4th Monday in July under this paragraph with ~~the appropriate~~ each municipality and taxing jurisdiction in the county ~~treasurer~~ not later than August ~~15~~ 20. Failure to settle timely under this subdivision subjects the ~~town, village, or city~~ county treasurer to the penalties under s. 74.31. ~~On or before August 20, the county treasurer shall settle with each taxing juris-~~

~~diction, including towns, villages, and cities except 1st class cities, in the county.~~

SECTION 1913. 79.10 (7m) (cm) 1. a. of the statutes is amended to read:

79.10 (**7m**) (cm) 1. a. If, in any year, the total of the amounts determined under subs. (4) ~~and~~, (5), and (5m) for any municipality is $3,000,000 or more, the municipality, with the approval of the majority of the members of the municipality's governing body, may notify the department of administration to distribute the amounts directly to the municipality and the department of administration shall distribute the amounts at the time and in the manner provided under pars. (a) 1. ~~and~~, (b) 1., and (c) 1.

SECTION 1914. 79.10 (7m) (cm) 1. b. of the statutes is amended to read:

79.10 (**7m**) (cm) 1. b. The treasurer of the municipality shall settle for the amounts distributed under ~~par.~~ pars. (a) 1. and (c) 1. on the 4th Monday in July with the appropriate county treasurer not later than August 15. Failure to settle timely under this subdivision subjects the treasurer of the municipality to the penalties under s. 74.31. On or before August 20, the county treasurer shall settle with each taxing jurisdiction, including towns, villages, and cities, except 1st class cities, in the county.

SECTION 1915. 79.10 (7m) (cm) 2. a. of the statutes is amended to read:

79.10 (**7m**) (cm) 2. a. The department of administration shall distribute the amounts determined under subs. (4) ~~and~~, (5), and (5m) directly to any municipality that enacts an ordinance under s. 74.12 at the time and in the manner provided under pars. (a) 1. ~~and~~, (b) 1., and (c) 1.

SECTION 1916. 79.10 (7m) (cm) 2. b. of the statutes is amended to read:

79.10 (**7m**) (cm) 2. b. The treasurer of the municipality shall settle for the amounts distributed under ~~par.~~ pars. (a) 1. and (c) 1. on the 4th Monday in July with the appropriate county treasurer not later than August 15. Failure to settle timely under this subdivision subjects the treasurer of the municipality to the penalties under s. 74.31. On or before August 20, the county treasurer shall settle with each taxing jurisdiction, including towns, villages, and cities, except 1st class cities, in the county.

SECTION 1917d. 79.14 of the statutes is amended to read:

79.14 School levy tax credit. The appropriation under s. 20.835 (3) (b), for the payments under s. 79.10 (4), is $319,305,000 in 1994, 1995, and 1996; $469,305,000 beginning in 1997 and ending in 2006; $593,050,000 in 2007; $672,400,000 in 2008; ~~and~~ $747,400,000 in 2009; and $732,550,000 in 2010 and in each year thereafter.

SECTION 1917m. 79.15 of the statutes is amended to read:

79.15 Improvements credit. ~~Beginning in 2009, the~~ The total amount paid each year to municipalities from the appropriation account under s. 20.835 (3) (b) for the payments under s. 79.10 (5m) is $75,000,000 in 2009, $145,000,000 in 2010, and $150,000,000 in 2011 and in each year thereafter.

SECTION 1918gp. 84.01 (33) of the statutes is created to read:

84.01 (**33**) HIGHWAY PROJECT DESIGN INVENTORY. By July 1, 2014, and continuously thereafter, the department shall maintain an inventory of completed designs for highway projects such that the estimated costs of the inventory of projects for each program is not less than 65 percent of the annual amount of funding provided to each program. The department shall maintain an inventory for each of the following:

(a) Major highway projects under s. 84.013 (2) (a).

(b) Reconditioning, reconstruction, and resurfacing projects under s. 84.013 (2) (b).

(c) Southeast Wisconsin freeway rehabilitation projects under s. 84.014 (2).

SECTION 1918gq. 84.01 (34) of the statutes is created to read:

84.01 (**34**) FARMLAND PRESERVATION EXEMPTION. Chapter 91 and ordinances adopted, rules promulgated, and agreements entered into under that chapter apply to the department only with respect to buildings, structures, and facilities to be used for administrative or operating functions, including buildings, land, and equipment to be used for the motor vehicle emission inspection and maintenance program under s. 110.20.

SECTION 1918gr. 84.01 (35) of the statutes is created to read:

84.01 (**35**) (a) In this subsection:

1. "Bikeway" has the meaning given in s. 84.60 (1) (a).

2. "Pedestrian way" has the meaning given in s. 346.02 (8) (a).

(b) Except as provided in par. (c), and notwithstanding any other provision of this chapter or ch. 82, 83, or 85, the department shall ensure that bikeways and pedestrian ways are established in all new highway construction and reconstruction projects funded in whole or in part from state funds or federal funds appropriated under s. 20.395 or 20.866.

(c) The department shall promulgate rules identifying exceptions to the requirement under par. (b), but these rules may provide for an exception only if any of the following apply:

1. Bicyclists or pedestrians are prohibited by law from using the highway that is the subject of the project.

2. The cost of establishing bikeways or pedestrian ways would be excessively disproportionate to the need or probable use of the bikeways or pedestrian ways. For purposes of this subdivision, cost is excessively disproportionate if it exceeds 20 percent of the total project cost. The rules may not allow an exception under this subdivision to be applied unless the secretary of transportation, or a designee of the secretary who has knowledge of the

purpose and value of bicycle and pedestrian accommodations, reviews the applicability of the exception under this subdivision to the particular project at issue.

3. Establishing bikeways or pedestrian ways would have excessive negative impacts in a constrained environment.

4. There is an absence of need for the bikeways or pedestrian ways, as indicated by sparsity of population, traffic volume, or other factors.

5. The community where pedestrian ways are to be located refuses to accept an agreement to maintain them.

SECTION 1918gs. 84.013 (2) (a) of the statutes is amended to read:

84.013 **(2)** (a) Subject to ss. 84.555 and 86.255, major highway projects shall be funded from the appropriations under ss. 20.395 (3) (bq) to (bx) and (t) and (4) (jq) and 20.866 (2) (ur) to (uum) and (uus).

SECTION 1918gt. 84.013 (2) (b) of the statutes is amended to read:

84.013 **(2)** (b) Except as provided in ss. 84.014, 84.03 (3), and 84.555, and subject to s. 86.255, reconditioning, reconstruction and resurfacing of highways shall be funded from the appropriations under ss. 20.395 (3) (cq) to (cx) and 20.866 (2) (uur) and (uut).

SECTION 1918h. 84.013 (3m) (f) of the statutes is created to read:

84.013 **(3m)** (f) The department shall construct an interchange on I 90/94/39 at Cuba Valley Road in Dane County if the federal highway administration approves the location of an interchange at that location and if the department receives a commitment for funding the full construction cost of the project from sources other than state funds.

SECTION 1918i. 84.013 (3m) (g) of the statutes is created to read:

84.013 **(3m)** (g) Notwithstanding s. 13.489 (1m) (e), the department shall prepare an environmental impact statement, as defined in s. 13.489 (1c) (b), for a potential major highway project involving USH 12 from the city of Elkhorn to the city of Whitewater.

SECTION 1918j. 84.013 (3m) (h) of the statutes is created to read:

84.013 **(3m)** (h) The department shall prepare an environmental assessment, as defined in s. 13.489 (1c) (a), or an environmental impact statement, as defined in s. 13.489 (1c) (b), whichever is appropriate, for a highway project involving the construction of a new bridge across the Wisconsin River, connecting CTH "Z" south of the city of Wisconsin Rapids in Wood County to STH 54/73 in the village of Port Edwards in Wood County. This environmental assessment or environmental impact statement shall be funded from the appropriations under s. 20.395 (3) (cq), (cv), or (cx).

SECTION 1918L. 84.013 (3m) (i) of the statutes is created to read:

84.013 **(3m)** (i) In conjunction with the resurfacing project on STH 102, the department shall construct a bicycle and pedestrian path and bridge, including lighting, along STH 102 from State Road to Fayette Avenue in the village of Rib Lake in Taylor County if the village contributes at least $60,000 to the cost of the bicycle and pedestrian path project.

SECTION 1919. 84.014 (5m) (ag) 2. of the statutes is amended to read:

84.014 **(5m)** (ag) 2. "Zoo interchange" means all freeways, including related interchange ramps, roadways, and shoulders, and all adjacent frontage roads and collector road systems, encompassing I 94, I 894, and USH 45 in Milwaukee County within the area bordered by I 894/USH 45 at ~~the Union Pacific railroad underpass near Burnham Street in Milwaukee County~~ Lincoln Avenue to the south, I 94 at ~~76th~~ 70th Street to the east, I 94 at ~~116th~~ 124th Street to the west, and USH 45 at ~~Center~~ Burleigh Street to the north.

SECTION 1919g. 84.016 of the statutes is created to read:

84.016 Major interstate bridge projects. **(1)** In this section, "major interstate bridge project" means a project involving the construction or reconstruction of a bridge on the state trunk highway system, including approaches, that crosses a river forming a boundary of the state and for which this state's estimated cost share is at least $100,000,000.

(2) Notwithstanding ss. 84.013, 84.51, 84.52, 84.53, 84.555, and 84.95, but subject to sub. (3) and s. 86.255, this state's share of costs for any major interstate bridge project, including preliminary design work for the project, may be funded only from the appropriations under ss. 20.395 (3) (dq), (dv), and (dx) and 20.866 (2) (ugm).

(3) The department may not encumber or expend any funds from the appropriation under s. 20.866 (2) (ugm) for any major interstate bridge project unless this state receives federal funds that are designated by the federal government specifically for a major interstate bridge project covering at least $75,000,000 of the state's share of the cost of the project.

SECTION 1919m. 84.04 (2m) of the statutes is created to read:

84.04 **(2m)** (a) Notwithstanding s. 84.25 (11), the department may enter into agreements with private entities for the establishment of commercial enterprises at waysides or rest areas located along state trunk highways other than interstate highways designated under s. 84.29 (2). An agreement may allow the construction or remodeling of wayside or rest area facilities to allow commercial enterprises to serve travelers.

(b) An agreement may not permit the sale of alcohol beverages within the wayside or rest area facilities or the replacement of any existing vending machines located within the wayside or rest area.

(c) The department shall select each private entity with which it enters into an agreement under par. (a) on the basis of competitive bids.

(d) The department shall hold a public hearing for a proposed agreement under par. (a) for each affected wayside or rest area to allow public comments on the proposed agreement.

(e) 1. Except as provided in subd. 2., the department may enter into agreements under par. (a) establishing commercial enterprises at not more than a total of 6 waysides or rest areas.

2. If, after 2 years from the establishment of the first commercial enterprise under par. (a), the department finds that establishing commercial enterprises at waysides or rest areas under authority of this paragraph promotes public safety by keeping waysides and rest areas open and well–maintained, the limitation in subd. 1. does not apply.

(f) The state traffic patrol and other law enforcement agencies shall have the same enforcement authority and responsibilities within commercial areas of waysides or rest areas as they do on the state trunk highway system.

(g) Not later than one year from the establishment of the first commercial enterprise under par. (a), and annually thereafter, the department shall submit a report as to the status of the agreements, including revenues generated and the use of those revenues, to the standing committees dealing with transportation matters in each house of the legislature under s. 13.172 (3).

(h) All moneys received from a private entity in connection with the leasing of a commercial area of a wayside or rest area under this subsection shall be credited to the appropriation account under s. 20.395 (3) (ev) and shall be used for wayside or rest area maintenance.

SECTION 1921e. 84.06 (12) of the statutes is created to read:

84.06 (**12**) BORROW SITES. (a) In this subsection:

1. "Borrow" means soil or a mixture of soil and stone, gravel, or other material suitable for use in the construction of embankments or other similar earthworks constructed as part of a state highway construction project.

2. "Borrow site" means any site from which borrow is excavated for use in a specified state highway construction project.

3. "Political subdivision" means a city, village, town, or county.

(b) No zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35, or 62.23 may apply to a borrow site if all of the following apply:

1. The borrow site is located on a property near the site of the state highway construction project on which the borrow is to be used.

2. The owner of the property has consented to the establishment of the borrow site on his or her property.

3. The borrow site is used solely for the specified state highway construction project and solely during the period of construction of the specified state highway construction project.

4. The owner of the property on which the borrow site is located agrees to any noise abatement or landscaping measures required by the governing body of the political subdivision during the period of use.

5. The owner of the property on which the borrow site is located agrees to reasonably restore the site after the period of use.

(c) This subsection does not apply to any borrow site opened for use after July 1, 2011.

SECTION 1924c. 84.1051 of the statutes is created to read:

84.1051 Donald J. Schneider Highway. The department shall designate and mark the route of USH 8 between USH 53 and the village of Turtle Lake in Barron County as the "Donald J. Schneider Highway" in recognition of former Wisconsin Senate Chief Clerk Donald J. Schneider for his many years of service to the Wisconsin senate and the people of Wisconsin.

SECTION 1926g. 84.56 of the statutes is created to read:

84.56 Additional funding for major highway projects. Notwithstanding ss. 84.51, 84.53, 84.555, and 84.59, major highway projects, as defined under s. 84.013 (1) (a), for the purposes of ss. 84.06 and 84.09, may be funded with the proceeds of general obligation bonds issued under s. 20.866 (2) (uus).

SECTION 1926m. 84.57 of the statutes is created to read:

84.57 Additional funding for certain state highway rehabilitation projects. (**1**) Notwithstanding ss. 84.51, 84.53, 84.555, 84.59, and 84.95, and subject to sub. (2), state highway rehabilitation projects for the purposes specified in s. 20.395 (6) (aq) may be funded with the proceeds of general obligation bonds issued under s. 20.866 (2) (uut).

(**2**) Only state highway reconstruction projects, pavement replacement projects, and bridge replacement projects may be funded with the proceeds of general obligation bonds issued under s. 20.866 (2) (uut).

SECTION 1927. 84.59 (2) (b) of the statutes is amended to read:

84.59 (**2**) (b) The department may, under s. 18.562, deposit in a separate and distinct special fund outside the state treasury, in an account maintained by a trustee, revenues derived under ss. 341.09 (2) (d), (2m) (a) 1., (4), and (7), 341.14 (2), (2m), (6) (d), (6m) (a), (6r) (b) 2., (6w), and (8), 341.145 (3), 341.16 (1) (a) and (b), (2), and (2m), 341.17 (8), 341.19 (1) (a), 341.25, 341.255 (1), (2) (a), (b), and (c), ~~(4),~~ and (5), 341.26 (1), (2), (2m) (am) and (b), (3), (3m), (4), (5), and (7), 341.264 (1), 341.265 (1), 341.266 (2) (b) and (3), 341.268 (2) (b) and (3), 341.30

(3), 341.305 (3), 341.308 (3), 341.36 (1) and (1m), 341.51 (2), and 342.14, except s. 342.14 (1r), and from any payments received with respect to agreements or ancillary arrangements entered into under s. 18.55 (6) with respect to revenue obligations issued under this section. The revenues deposited are the trustee's revenues in accordance with the agreement between this state and the trustee or in accordance with the resolution pledging the revenues to the repayment of revenue obligations issued under this section. Revenue obligations issued for the purposes specified in sub. (1) and for the repayment of which revenues are deposited under this paragraph are special fund obligations, as defined in s. 18.52 (7), issued for special fund programs, as defined in s. 18.52 (8).

SECTION 1927d. 84.59 (2) (b) of the statutes, as affected by 2009 Wisconsin Act .... (this act), is amended to read:

84.59 (**2**) (b) The department may, under s. 18.562, deposit in a separate and distinct special fund outside the state treasury, in an account maintained by a trustee, revenues derived under ss. 341.09 (2) (d), (2m) (a) 1., (4), and (7), 341.14 (2), (2m), (6) (d), (6m) (a), (6r) (b) 2., (6w), and (8), 341.145 (3), 341.16 (1) (a) and (b), (2), and (2m), 341.17 (8), 341.19 (1) (a), 341.25, 341.255 (1), (2) (a), (b), and (c), and (5), 341.26 (1), (2), (2m) (am) and (b), (3), (3m), (4), (5), and (7), 341.264 (1), 341.265 (1), 341.266 (2) (b) and (3), 341.268 (2) (b) and (3), 341.30 (3), 341.305 (3), 341.307 (4) (a), 341.308 (3), 341.36 (1) and (1m), 341.51 (2), and 342.14, except s. 342.14 (1r), and from any payments received with respect to agreements or ancillary arrangements entered into under s. 18.55 (6) with respect to revenue obligations issued under this section. The revenues deposited are the trustee's revenues in accordance with the agreement between this state and the trustee or in accordance with the resolution pledging the revenues to the repayment of revenue obligations issued under this section. Revenue obligations issued for the purposes specified in sub. (1) and for the repayment of which revenues are deposited under this paragraph are special fund obligations, as defined in s. 18.52 (7), issued for special fund programs, as defined in s. 18.52 (8).

SECTION 1928. 84.59 (6) of the statutes is amended to read:

84.59 (**6**) The building commission may contract revenue obligations when it reasonably appears to the building commission that all obligations incurred under this section can be fully paid from moneys received or anticipated and pledged to be received on a timely basis. Except as provided in this subsection, the principal amount of revenue obligations issued under this section may not exceed ~~$2,708,341,000~~ $3,009,784,200, excluding any obligations that have been defeased under a cash optimization program administered by the building commission, to be used for transportation facilities under s. 84.01 (28) and major highway projects for the purposes under ss. 84.06 and 84.09. In addition to the foregoing limit on principal amount, the building commission may contract revenue obligations under this section as the building commission determines is desirable to refund outstanding revenue obligations contracted under this section, to make payments under agreements or ancillary arrangements entered into under s. 18.55 (6) with respect to revenue obligations issued under this section, and to pay expenses associated with revenue obligations contracted under this section.

SECTION 1928b. 85.022 (2) (c) of the statutes is created to read:

85.022 (**2**) (c) If the department considers a high–speed rail route between the cities of Milwaukee and Madison, the department shall include in its consideration a study of the feasibility of including a stop in the city of Waterloo in Jefferson County.

SECTION 1928c. 85.022 (3) of the statutes is amended to read:

85.022 (**3**) A recipient of funding under this section shall make the results of its study available to any interested city, village, town or county ~~and shall comply with the requirements of s. 59.58 (6) (dm), if applicable~~.

SECTION 1928g. 85.024 (2) of the statutes is amended to read:

85.024 (**2**) The department shall administer a bicycle and pedestrian facilities program to award grants of assistance to political subdivisions for the planning, development, or construction of bicycle and pedestrian facilities. For purposes of this subsection, "bicycle and pedestrian facilities" do not include sidewalks or street beautification measures. The department shall award from the appropriation under s. 20.395 (2) (ox) grants to political subdivisions under this section. The department may, from the appropriation under s. 20.395 (2) (oq), supplement the amount of these grants. A political subdivision that is awarded a grant under this section shall contribute matching funds equal to at least 20 percent of the amount awarded under this section. Any improvement project for which a political subdivision receives a grant under this section shall be let by contract based on bids and the contract shall be awarded to the lowest competent and responsible bidder.

SECTION 1928j. 85.026 (2) of the statutes is renumbered 85.026 (2) (a) and amended to read:

85.026 (**2**) PROGRAM. (a) The department may administer a program to award grants of assistance to any political subdivision or state agency, as defined in s. 20.001 (1), for transportation enhancement activities consistent with federal regulations promulgated under 23 USC 133 (b) (8). The grants shall be awarded from the appropriations under s. 20.395 (2) (nv) and (nx). The department may, from the appropriation under s. 20.395 (2) (oq), supplement the amount of these grants for grants awarded for transportation enhancement activities

involving bicycle and pedestrian facilities eligible for assistance under s. 85.024 (2).

SECTION 1928k. 85.026 (2) (b) of the statutes is created to read:

85.026 **(2)** (b) The department shall allocate at least 70 percent of funds available from the appropriation under s. 20.395 (2) (nx) for grants awarded for transportation enhancement activities involving bicycle and pedestrian facilities eligible for assistance under s. 85.024 (2).

SECTION 1928m. 85.062 (3) (a) of the statutes is repealed and recreated to read:

85.062 **(3)** (a) The Dane County commuter rail project.

SECTION 1928p. 85.062 (3) (b) of the statutes is created to read:

85.062 **(3)** (b) Any project resulting from the Milwaukee Downtown Transit Connector Study of the Wisconsin Center District.

SECTION 1928t. 85.062 (3) (c) of the statutes is created to read:

85.062 **(3)** (c) The KRM commuter rail line, as defined in s. 59.58 (7) (a) 3.

SECTION 1929. 85.063 (3) (b) 1. of the statutes is amended to read:

85.063 **(3)** (b) 1. Upon completion of a planning study under sub. (2), or, to the satisfaction of the department, of a study under s. 85.022, a political subdivision in a county ~~which~~, or a transit authority created under s. 66.1039, that includes the urban area may apply to the department for a grant for property acquisition for an urban rail transit system.

SECTION 1930. 85.064 (1) (b) of the statutes is amended to read:

85.064 **(1)** (b) "Political subdivision" means any city, village, town, county, transit commission organized under s. 59.58 (2) or 66.1021 or recognized under s. 66.0301, or ~~regional~~ transit authority ~~organized~~ created under s. ~~59.58 (6)~~ 66.1039 within this state or the southeastern regional transit authority under s. 59.58 (7).

SECTION 1931. 85.064 (4) of the statutes is repealed.

SECTION 1931L. 85.077 of the statutes is created to read:

85.077 Railroad projects and competitive bidding. **(1)** Except as provided in subs. (2) and (4), if a project involving the construction, rehabilitation, improvement, demolition, or repair of rail property or rail property improvements is funded in any part with public funds, the department or the recipient of the public funds shall let the project by contract on the basis of competitive bids and shall award the contract to the lowest responsible bidder.

(2) The provisions of sub. (1) do not apply if any of the following applies:

(a) The project is in response to a public emergency.

(am) The project is for the installation or maintenance of warning devices at railroad highway crossings.

(b) The estimated cost of the project is less than $25,000.

(c) The project involves only rail property or rail property improvements owned or leased by a railroad and the project is to be performed by the railroad using its own employees.

(3) The department or the recipient of public funds may not subdivide a project into more than one contract, allocate work or workers in any manner, or transfer the jurisdiction of a project to avoid the requirements of sub. (1).

(4) If no responsible bid is received, the contract may be awarded without complying with sub. (1).

SECTION 1932. 85.11 of the statutes is created to read:

85.11 Southeast Wisconsin transit capital assistance program. **(1)** DEFINITIONS. In this section:

(a) "Eligible applicant" means the Milwaukee Transit Authority under s. 66.1038 and the southeastern regional transit authority under s. 59.58 (7).

(ar) "Major transit capital improvement project" has the meaning given in s. 85.062 (1).

(b) "Municipality" means a city, village, or town.

(c) "Southeast Wisconsin" means the geographical area comprising the counties of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha.

(2) PROGRAM AND FUNDING. The department shall develop and administer a southeast Wisconsin transit capital assistance program. From the appropriation under s. 20.866 (2) (uq), the department may award grants to eligible applicants for transit capital improvements as provided under subs. (4) to (6).

(3) APPLICATIONS. (a) Each grant applicant shall specify any project for which grant funds are requested. An applicant may not include a project in a grant application if the project is a major transit capital improvement project and the project has not been enumerated under s. 85.062 (3).

(b) The department may not accept grant applications under this section after December 31, 2015.

(4) ELIGIBILITY. The department may not award a grant under this section to an eligible applicant unless all of the following apply:

(a) The eligible applicant is eligible under federal law to be a public sponsor for a project that receives federal funding.

(b) The eligible applicant receives funds from a dedicated local revenue source for capital and operating costs associated with providing transit services.

(5) GRANT AWARDS. (a) Subject to par. (b), the department may award grants to eligible applicants that satisfy the requirements under sub. (4). Any grant awarded under this section may not exceed $50,000,000, 25 per-

cent of the total project cost, or 50 percent of the portion of the total project cost not funded with federal aid, whichever is least.

(b) The department may award a grant under par. (a) only if all of the following apply:

1. Any project for which the grant is to be awarded has received any approval to proceed required by the appropriate federal agency. Approval to proceed under this subdivision is required by December 31, 2012, for any project utilizing federal interstate cost estimate substitute project funding and for any project resulting from the Milwaukee Downtown Transit Connector Study of the Wisconsin Center District.

2. The number of revenue hours of transit service provided in the area serviced by the grant applicant at the time of the grant application is not less than that provided in 2001, if transit services were provided in 2001 by the grant applicant or by any other local unit of government.

(6) ADMINISTRATION. In administering this section, the department shall do all of the following:

(a) Prescribe the form of grant applications and the nature and extent of information to be provided with these applications, and establish an annual application cycle for receiving and evaluating applications under the program.

(b) Establish criteria and standards for grant eligibility for transit capital improvement projects under the program.

(c) Establish criteria and standards for evaluating and ranking applications and for awarding grants under the program.

SECTION 1933. 85.14 (title) and (1) of the statutes are amended to read:

85.14 (title) **Payments of fees and deposits by credit card, debit card, or other electronic payment mechanism.** **(1)** (a) The department may accept payment by credit card, debit card, or any other electronic payment mechanism of a fee that is required to be paid to the department under ch. 194, 218, 341, 342, 343 or 348. The department shall determine which fees may be paid by credit card, debit card, or any other electronic payment mechanism and the manner in which the payments may be made. If the department permits the payment of a fee by credit card, debit card, or any other electronic payment mechanism, the department may charge a convenience fee for each transaction in an amount to be established by rule. The convenience fee shall approximate the cost to the department for providing this service to persons who request it. If the department permits the payment of a fee by credit card, debit card, or any other electronic payment mechanism, the department may charge a service fee of $2.50 for each transaction until a rule is promulgated under this paragraph.

(b) ~~Except for charges associated with a contract under par. (c), the~~ If the secretary of administration assesses any charges against the department relating to the payment of fees by credit cards, debit cards, or other electronic payment mechanisms, the department shall pay, from the appropriation under s. 20.395 (5) (cg), to the secretary of administration or to any person designated by the secretary of administration the amount of these assessed charges ~~associated with the use of credit cards under par. (a) that are assessed to the department~~.

(c) The department may contract for services relating to the payment of fees by credit cards, debit cards, or other electronic payment mechanisms under this subsection. Any charges associated with a contract under this paragraph shall be paid from the appropriations under s. 20.395 (5) (cg) and (cq).

SECTION 1933s. 85.20 (4m) (a) (intro.) of the statutes is amended to read:

85.20 **(4m)** (a) (intro.) The department shall pay annually to the eligible applicant described in subd. 6. cm. the amount of aid specified in subd. 6. cm. The department shall pay annually to the eligible applicant described in subd. 6. d. the amount of aid specified in subd. 6. d. The department shall allocate an amount to each eligible applicant described in subd. 6. e., 7., or 8. to ensure that the sum of state and federal aids for the projected operating expenses of each eligible applicant's urban mass transit system is equal to a uniform percentage, established by the department, of the projected operating expenses of the mass transit system for the calendar year. The department shall make allocations as follows:

SECTION 1934. 85.20 (4m) (a) 6. cm. of the statutes is amended to read:

85.20 **(4m)** (a) 6. cm. From the appropriation under s. 20.395 (1) (ht), the department shall pay ~~$57,948,000 for aid payable for calendar year 2006, $59,107,000 for aid payable for calendar year 2007,~~ $63,784,700 for aid payable for calendar year 2008, ~~and~~ $65,299,200 for aid payable for calendar year 2009, $66,585,600 for aid payable for calendar year 2010, and $68,583,200 for aid payable for calendar year 2011 and thereafter, to the eligible applicant that pays the local contribution required under par. (b) 1. for an urban mass transit system that has annual operating expenses ~~in excess~~ of $80,000,000 or more. If the eligible applicant that receives aid under this subd. 6. cm. is served by more than one urban mass transit system, the eligible applicant may allocate the aid between the urban mass transit systems in any manner the eligible applicant considers desirable.

SECTION 1935. 85.20 (4m) (a) 6. d. of the statutes is amended to read:

85.20 **(4m)** (a) 6. d. From the appropriation under s. 20.395 (1) (hu), the department shall pay ~~$15,470,200 for aid payable for calendar year 2006, $15,779,600 for aid payable for calendar year 2007,~~ $16,754,000 for aid payable for calendar year 2008, ~~and~~ $17,158,400 for aid payable for calendar year 2009, $17,496,400 for aid payable for calendar year 2010, and $18,021,300 for aid payable for calendar year 2011 and thereafter, to the eligible

applicant that pays the local contribution required under par. (b) 1. for an urban mass transit system that has annual operating expenses in excess of $20,000,000 but less than $80,000,000. If the eligible applicant that receives aid under this subd. 6. d. is served by more than one urban mass transit system, the eligible applicant may allocate the aid between the urban mass transit systems in any manner the eligible applicant considers desirable.

SECTION 1935d. 85.20 (4m) (a) 6. e. of the statutes is created to read:

85.20 (**4m**) (a) 6. e. From the appropriation under s. 20.395 (1) (hw), the department may pay the uniform percentage for each eligible applicant for a commuter or light rail system that has been enumerated under s. 85.062 (3). An eligible applicant may not receive aid under subd. 6. cm. or d., 7., or 8. for a commuter rail or light rail transit system.

SECTION 1936. 85.20 (4m) (a) 7. b. of the statutes is amended to read:

85.20 (**4m**) (a) 7. b. For the purpose of making allocations under subd. 7. a., the amounts for aids are ~~$22,192,800 in calendar year 2006, $22,636,700 in calendar year 2007,~~ $24,034,400 in calendar year 2008, ~~and~~ $24,614,500 in calendar year 2009, $25,099,500 in calendar year 2010, and $25,852,500 in calendar year 2011 and thereafter. These amounts, to the extent practicable, shall be used to determine the uniform percentage in the particular calendar year.

SECTION 1937. 85.20 (4m) (a) 8. b. of the statutes is amended to read:

85.20 (**4m**) (a) 8. b. For the purpose of making allocations under subd. 8. a., the amounts for aids are ~~$5,023,600 in calendar year 2006, $5,124,100 in calendar year 2007,~~ $5,440,500 in calendar year 2008, ~~and~~ $5,571,800 in calendar year 2009, $5,681,600 in calendar year 2010, and $5,852,200 in calendar year 2011 and thereafter. These amounts, to the extent practicable, shall be used to determine the uniform percentage in the particular calendar year.

SECTION 1937d. 85.20 (4s) of the statutes is amended to read:

85.20 (**4s**) PAYMENT OF AIDS UNDER THE CONTRACT. The contracts executed between the department and eligible applicants under this section shall provide that the payment of the state aid allocation under sub. (4m) (a) for the last quarter of the state's fiscal year shall be provided from the following fiscal year's appropriation under s. 20.395 (1) (hr), (hs), (ht), ~~or~~ (hu), or (hw).

SECTION 1937m. 85.205 of the statutes is repealed.

SECTION 1938. 85.215 of the statutes is created to read:

85.215 Tribal elderly transportation grant program. The department shall award grants to federally recognized American Indian tribes or bands to assist in providing transportation services for elderly persons. Grants awarded under this section shall be paid from the appropriation under s. 20.395 (1) (ck). The department shall prescribe the form, nature, and extent of the information that shall be contained in an application for a grant under this section. The department shall establish criteria for evaluating applications and for awarding grants under this section.

SECTION 1939. 85.26 of the statutes is created to read:

85.26 Intercity bus assistance program. (1) DEFINITIONS. In this section:

(a) "Intercity bus service" means regularly scheduled bus service for the general public that operates with limited stops over fixed routes connecting 2 or more urban areas not in close proximity, that has the capacity for transporting baggage carried by passengers, and that makes meaningful connections with scheduled intercity bus service to more distant points if service to more distant points is available.

(b) "Net operating loss" means the portion of the reasonable costs of operating an intercity bus service route that cannot reasonably be financed from revenues derived from the route.

(c) "Political subdivision" means a city, village, town, or county.

(2) ADMINISTRATION. (a) The department shall develop and administer an intercity bus assistance program to increase the availability of intercity bus service in this state. Under this program, the department may do any of the following:

1. Contract with private providers of intercity bus service to support intercity bus service routes of the provider.

2. Make grants to political subdivisions to support intercity bus service routes having an origin or destination in the political subdivision.

(b) All expenditures under the program shall be made from the appropriations under s. 20.395 (1) (bq), (bv), and (bx). The department may not enter into any contract under par. (a) 1., or award any grant under par. (a) 2., that provides funds to support any intercity bus service route in an amount exceeding the lesser of the following:

1. Fifty percent of the net operating loss of the intercity bus service route.

2. The portion of the net operating loss of the intercity bus service route for which federal funds are not available.

(c) 1. The department shall prescribe the form, nature, and extent of the information which shall be contained in an application for a grant under par. (a) 2.

2. The department shall establish criteria for evaluating applications for grants under par. (a) 2.

SECTION 1940m. 86.195 (3) (e) 2. of the statutes is amended to read:

86.195 (**3**) (e) 2. Regional significance. For purposes of this subdivision, an agricultural research station owned or managed by a university has regional significance regardless of the number of visitors to the station.

SECTION 1941. 86.30 (2) (a) 3. of the statutes is amended to read:

86.30 (**2**) (a) 3. For each mile of road or street under the jurisdiction of a municipality as determined under s. 86.302, the mileage aid payment shall be ~~$1,862 in calendar year 2006, $1,899 in calendar year 2007,~~ $1,956 in calendar year 2008, ~~and~~ $2,015 in calendar year 2009, $2,055 in calendar year 2010, and $2,117 in calendar year 2011 and thereafter.

SECTION 1942. 86.30 (9) (b) of the statutes is amended to read:

86.30 (**9**) (b) For the purpose of calculating and distributing aids under sub. (2), the amounts for aids to counties are ~~$91,845,500 in calendar year 2006, $93,682,400 in calendar year 2007,~~ $96,492,900 in calendar year 2008, ~~and~~ $99,387,700 in calendar year 2009, $101,375,500 in calendar year 2010, and $104,416,800 in calendar year 2011 and thereafter. These amounts, to the extent practicable, shall be used to determine the statewide county average cost–sharing percentage in the particular calendar year.

SECTION 1943. 86.30 (9) (c) of the statutes is amended to read:

86.30 (**9**) (c) For the purpose of calculating and distributing aids under sub. (2), the amounts for aids to municipalities are ~~$288,956,900 in calendar year 2006, $294,736,000 in calendar year 2007,~~ $303,578,100 in calendar year 2008, ~~and~~ $312,685,400 in calendar year 2009, $318,939,100 in calendar year 2010, and $328,507,300 in calendar year 2011 and thereafter. These amounts, to the extent practicable, shall be used to determine the statewide municipal average cost–sharing percentage in the particular calendar year.

SECTION 1944. 86.31 (3g) of the statutes is amended to read:

86.31 (**3g**) COUNTY TRUNK HIGHWAY IMPROVEMENTS — DISCRETIONARY GRANTS. From the appropriation under s. 20.395 (2) (ft), the department shall allocate ~~$5,250,000 in fiscal year 2005–06 and in fiscal year 2006–07,~~ $5,355,000 in fiscal year 2007–08, ~~and~~ $5,462,100 in fiscal year 2008–09, and $5,127,000 in fiscal year 2009–10 and each fiscal year thereafter, to fund county trunk highway improvements with eligible costs totaling more than $250,000. The funding of improvements under this subsection is in addition to the allocation of funds for entitlements under sub. (3).

SECTION 1945. 86.31 (3m) of the statutes is amended to read:

86.31 (**3m**) TOWN ROAD IMPROVEMENTS — DISCRETIONARY GRANTS. From the appropriation under s. 20.395 (2) (ft), the department shall allocate ~~$750,000 in fiscal year 2005–06 and in fiscal year 2006–07,~~ $765,000 in fiscal year 2007–08, ~~and~~ $780,300 in fiscal year 2008–09, and $732,500 in fiscal year 2009–10 and each fiscal year thereafter, to fund town road improvements with eligible costs totaling $100,000 or more. The funding of improvements under this subsection is in addition to the allocation of funds for entitlements under sub. (3).

SECTION 1946. 86.31 (3r) of the statutes is amended to read:

86.31 (**3r**) MUNICIPAL STREET IMPROVEMENTS — DISCRETIONARY GRANTS. From the appropriation under s. 20.395 (2) (ft), the department shall allocate ~~$1,000,000 in fiscal year 2005–06 and in fiscal year 2006–07,~~ $1,020,000 in fiscal year 2007–08, ~~and~~ $1,040,400 in fiscal year 2008–09, and $976,500 in fiscal year 2009–10 and each fiscal year thereafter, to fund municipal street improvement projects having total estimated costs of $250,000 or more. The funding of improvements under this subsection is in addition to the allocation of funds for entitlements under sub. (3).

SECTION 1947. Chapter 91 of the statutes is repealed and recreated to read:

CHAPTER 91
FARMLAND PRESERVATION

SUBCHAPTER I
DEFINITIONS AND GENERAL PROVISIONS

91.01 Definitions. In this chapter:

(**1**) "Accessory use" means any of the following land uses on a farm:

(a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.

(b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.

(c) A farm residence.

(d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full–time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

(e) Any other use that the department, by rule, identifies as an accessory use.

(**1m**) "Agricultural enterprise area" means an area designated in accordance with s. 91.84.

(**2**) "Agricultural use" means any of the following:

(a) Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.

4m. Floriculture.

5. Aquaculture.
6. Fur farming.
7. Forest management.
8. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

(b) Any other use that the department, by rule, identifies as an agricultural use.

(3) "Agriculture–related use" means any of the following:

(a) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.

(b) Any other use that the department, by rule, identifies as an agriculture–related use.

(5) "Base farm tract" means one of the following:

(a) All land, whether one parcel or 2 or more contiguous parcels, that is in a farmland preservation zoning district and that is part of a single farm on the date that the department under s. 91.36 (1) first certifies the farmland preservation zoning ordinance covering the land or on an earlier date specified in the farmland preservation zoning ordinance, regardless of any subsequent changes in the size of the farm.

(b) Any other tract that the department by rule defines as a base farm tract.

(6) "Certified farmland preservation plan" means a farmland preservation plan that is certified as determined under s. 91.12.

(7) "Certified farmland preservation zoning ordinance" means a zoning ordinance that is certified as determined under s. 91.32.

(8) "Chief elected official" means the mayor of a city or, if the city is organized under subch. I of ch. 64, the president of the council of that city, the village president of a village, the town board chairperson of a town, or the county executive of a county, or, if the county does not have a county executive, the chairperson of the county board of supervisors.

(9) "Comprehensive plan" has the meaning given in s. 66.1001 (1) (a).

(10) "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a political subdivision.

(11) "County land conservation committee" means a committee created under s. 92.06 (1).

(12) "Department" means the department of agriculture, trade and consumer protection.

(13) "Farm" means all land under common ownership that is primarily devoted to agricultural use.

(14) "Farm acreage" means size of a farm in acres.

(15) "Farmland preservation agreement" means any of the following agreements between an owner of land and the department under which the owner agrees to restrict the use of land in return for tax credits:

(a) A farmland preservation agreement or transition area agreement entered into under s. 91.13, 2007 stats., or s. 91.14, 2007 stats.

(b) An agreement entered into under s. 91.60 (1).

(16) "Farmland preservation area" means an area that is planned primarily for agricultural use or agriculture–related use, or both, and that is one of the following:

(a) Identified as an agricultural preservation area or transition area in a farmland preservation plan described in s. 91.12 (1).

(b) Identified under s. 91.10 (1) (d) in a farmland preservation plan described in s. 91.12 (2).

(17) "Farmland preservation plan" means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.

(18) "Farmland preservation zoning district" means any of the following:

(a) An area zoned for exclusive agricultural use under an ordinance described in s. 91.32 (1).

(b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in an ordinance described in s. 91.32 (2).

(19) "Farm residence" means any of the following structures that is located on a farm:

(a) A single–family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:

1. An owner or operator of the farm.

2. A parent or child of an owner or operator of the farm.

3. An individual who earns more than 50 percent of his or her gross income from the farm.

(b) A migrant labor camp that is certified under s. 103.92.

(20) "Gross farm revenues" has the meaning given in s. 71.613 (1) (g).

(20m) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm–raised deer, farm–raised game birds, camelids, ratites, and farm–raised fish.

(21) "Nonfarm residence" means a single–family or multi–family residence other than a farm residence.

(22) "Nonfarm residential acreage" means the total number of acres of all parcels on which nonfarm residences are located.

(22m) "Overlay district" means a zoning district that is superimposed on one or more other zoning districts and imposes additional restrictions on the underlying districts.

(23) "Owner" means a person who has an ownership interest in land.

(23m) "Permitted use" means a use that is allowed without a conditional use permit, special exception, or other special zoning permission.

(24) "Political subdivision" means a city, village, town, or county.

(25) "Prime farmland" means any of the following:

(a) An area with a class I or class II land capability classification as identified by the natural resources conservation service of the federal department of agriculture.

(b) Land, other than land described in par. (a), that is identified as prime farmland in a certified farmland preservation plan.

(26) "Prior nonconforming use" means a land use that does not conform with a farmland preservation zoning ordinance, but that existed lawfully before the farmland preservation zoning ordinance was enacted.

(27) "Protected farmland" means land that is located in a farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

(28) "Taxable year" has the meaning given in s. 71.01 (12).

91.02 Rule making. **(1)** The department shall promulgate rules that set forth technical specifications for farmland preservation zoning maps under s. 91.38 (1) (d).

(2) The department may promulgate rules for the administration of this chapter, including rules that do any of the following:

(a) Identify accessory uses under s. 91.01 (1) (e).

(b) Identify agricultural uses under s. 91.01 (2) (b).

(c) Identify agriculture–related uses under s. 91.01 (3) (b).

(d) Identify base farm tracts under s. 91.01 (5) (b).

(e) Specify requirements for certification under s. 91.18 (1) (b).

(f) Require information in an application for certification of a farmland preservation plan or amendment under s. 91.20 (4).

(g) Specify types of ordinance amendments for which certification is required under s. 91.36 (8) (b) 3.

(h) Specify exceptions to the requirement that land in a farmland preservation zoning district be included in a farmland preservation area under s. 91.38 (1) (g).

(i) Specify requirements for certification of a farmland preservation zoning ordinance under s. 91.38 (1) (i).

(j) Require information in an application for certification of a farmland preservation zoning ordinance or amendment under s. 91.40 (5).

(k) Authorize additional uses in a farmland preservation zoning district under s. 91.42 (4).

(L) Authorize additional uses as permitted uses in a farmland preservation zoning district under s. 91.44 (1) (g).

(m) Authorize additional uses as conditional uses in a farmland preservation zoning district under s. 91.46 (1) (j).

(o) Designate agricultural enterprise areas and modify and terminate designations of those areas under s. 91.84.

(p) Require information in an application for a farmland preservation agreement under s. 91.64 (2) (h).

(r) Prescribe procedures for compliance monitoring under s. 91.82 (3).

91.03 Intergovernmental cooperation. State agencies shall cooperate with the department in the administration of this chapter and in other matters related to the preservation of farmland in this state. State agencies shall, to the extent feasible, cooperate in sharing and standardizing relevant information, identifying and mapping significant agricultural resources, and planning and evaluating the impact of state actions on agriculture.

91.04 Department to report. At least once every 2 years, beginning not later than December 31, 2011, the department shall submit a farmland preservation report to the board of agriculture, trade and consumer protection and provide copies of the report to the department of revenue and the department of administration. The department shall prepare the report in cooperation with the department of revenue and shall include all of the following in the report:

(1) A review and analysis of farmland availability, uses, and use trends in this state, including information related to farmland conversion statewide and by county.

(2) A review and analysis of relevant information related to the farmland preservation program under this chapter and associated tax credit claims under subch. IX of ch. 71, including information related to all of the following:

(a) Participation in the program by political subdivisions and landowners.

(b) Tax credit claims by landowners, including the number of claimants, the amount of credits claimed, acreage covered by tax credit claims, the amount of credits claimed under zoning ordinances and under farmland preservation agreements, and relevant projections and trends.

(c) The number, identity, and location of counties with certified farmland preservation plans.

(d) Trends and developments related to certification of farmland preservation plans.

(e) The number, identity, and location of political subdivisions with certified farmland preservation zoning ordinances.

(f) Trends and developments related to certification of farmland preservation zoning ordinances.

(g) The number, nature, and location of agricultural enterprise areas.

(h) The number and location of farms covered by farmland preservation agreements, including new farmland preservation agreements, and the number and location of farms for which farmland preservation agreements have expired.

(i) Conservation compliance by landowners under s. 91.80 and compliance activities by county land conservation committees under s. 91.82.

(j) Rezoning of land out of farmland preservation zoning districts under s. 91.48, including the amounts of

conversion fees paid to political subdivisions under s. 91.48 (1) (b).

(k) Program costs, cost trends, and cost projections.

(L) Key issues related to program performance and key recommendations, if any, for enhancing the program.

SUBCHAPTER II

FARMLAND PRESERVATION PLANNING

91.10 County plan required; planning grants. (1) By January 1, 2016, a county shall adopt a farmland preservation plan that does all of the following:

(a) States the county's policy related to farmland preservation and agricultural development, including the development of enterprises related to agriculture.

(b) Identifies, describes, and documents other development trends, plans, or needs, that may affect farmland preservation and agricultural development in the county, including trends, plans, or needs related to population and economic growth, housing, transportation, utilities, communications, business development, community facilities and services, energy, waste management, municipal expansion, and environmental preservation.

(c) Identifies, describes, and documents all of the following:

1. Agricultural uses of land in the county at the time that the farmland preservation plan is adopted, including key agricultural specialities, if any.

2. Key agricultural resources, including available land, soil, and water resources.

3. Key infrastructure for agriculture, including key processing, storage, transportation, and supply facilities.

4. Significant trends in the county related to agricultural land use, agricultural production, enterprises related to agriculture, and the conversion of agricultural lands to other uses.

5. Anticipated changes in the nature, scope, location, and focus of agricultural production, processing, supply, and distribution.

6. Goals for agricultural development in the county, including goals related to the development of enterprises related to agriculture.

7. Actions that the county will take to preserve farmland and to promote agricultural development.

7m. Policies, goals, strategies, and proposed actions to increase housing density in areas that are not identified under par. (d).

8. Key land use issues related to preserving farmland and to promoting agricultural development and plans for addressing those issues.

(d) Clearly identifies areas that the county plans to preserve for agricultural use and agriculture–related uses, which may include undeveloped natural resource and open space areas but may not include any area that is planned for nonagricultural development within 15 years after the date on which the plan is adopted.

(dm) Describes the rationale used to determine which areas to identify under par. (d).

(e) Includes maps that clearly delineate all areas identified under par. (d), so that a reader can easily determine whether a parcel is within an identified area.

(f) Clearly correlates the maps under par. (e) with text that describes the types of land uses planned for each area on a map.

(g) Identifies programs and other actions that the county and local governmental units within the county may use to preserve the areas identified under par. (d).

(2) If the county has a comprehensive plan, the county shall include the farmland preservation plan in its comprehensive plan and shall ensure that the farmland preservation plan is consistent with the comprehensive plan. The county may incorporate information contained in other parts of the comprehensive plan into the farmland preservation plan by reference.

(3) To adopt a farmland preservation plan under sub. (1), a county shall follow the procedures under s. 66.1001 (4) for the adoption of a comprehensive plan.

(4) The department may provide information and assistance to a county in developing a farmland preservation plan under sub. (1).

(5) A county shall notify the department before the county holds a public hearing on a proposed farmland preservation plan under sub. (1) or on any amendment to a farmland preservation plan. The county shall include a copy of the proposed farmland preservation plan or amendment in the notice. The department may review and comment on the plan or amendment.

(6) (a) From the appropriation under s. 20.115 (7) (dm) or (tm), the department may award a planning grant to a county to provide reimbursement for up to 50 percent of the county's cost of preparing a farmland preservation plan required under sub. (1). In determining priorities for awarding grants under this subsection, the department shall consider the expiration dates for plan certification under s. 91.14.

(b) The department shall enter into a contract with a county to which it awards a planning grant under par. (a) before the department distributes any grant funds to the county. In the contract, the department shall identify the costs that are eligible for reimbursement through the grant.

(c) The department may distribute grant funds under this subsection only after the county shows that it has incurred costs that are eligible for reimbursement under par. (b). The department may not distribute more than 50 percent of the amount of a grant under this subsection for a farmland preservation plan before the county submits the farmland preservation plan for certification under s. 91.16.

91.12 Certified plan. The following farmland preservation plans are certified, for the purposes of this chapter and s. 71.613:

(1) An agricultural preservation plan that was certified under s. 91.06, 2007 stats., if the certification has not expired.

(2) A farmland preservation plan that was certified under s. 91.16 if the certification has not expired or been withdrawn.

91.14 Expiration of plan certification. (1) Except as provided under sub. (4), the certification of a farmland preservation plan that was certified under s. 91.06, 2007 stats., expires on the date provided in the certification or, if the certification does not provide an expiration date, on the following date:

(a) December 31, 2011, for a county with an increase in population density of more than 9 persons per square mile.

(b) December 31, 2012, for a county with an increase in population density of more than 3.75 but not more than 9 persons per square mile.

(c) December 31, 2013, for a county with an increase in population density of more than 1.75 but not more than 3.75 persons per square mile.

(d) December 31, 2014, for a county with an increase in population density of more than 0.8 but not more than 1.75 persons per square mile.

(e) December 31, 2015, for a county with an increase in population density of not more than 0.8 person per square mile.

(2) The certification of a farmland preservation plan that the department certifies under s. 91.16 expires on the date specified under s. 91.16 (2).

(3) For the purposes of sub. (1), a county's increase in population density is the number by which the county's population per square mile based on the department of administration's 2007 population estimate under s. 16.96 exceeds the county's population per square mile based on the 2000 federal census.

(4) The secretary of agriculture, trade and consumer protection may delay the date for the expiration of a county's farmland preservation plan for up to 2 years beyond the date under sub. (1) upon a written request from the county demonstrating to the secretary's satisfaction that a delay would allow the county to concurrently develop a farmland preservation plan and a comprehensive plan or an update to a comprehensive plan.

91.16 Certification of plan by the department. (1) GENERAL. The department may certify a farmland preservation plan or an amendment to a farmland preservation plan as provided in this section.

(2) CERTIFICATION PERIOD. (a) The department may certify a farmland preservation plan for a period that does not exceed 10 years. The department shall specify the expiration date of the certification of the farmland preservation plan in the certification.

(b) The certification of an amendment to a certified farmland preservation plan expires on the date that the certification of the farmland preservation plan expires, except that the department may treat a comprehensive revision of a certified farmland preservation plan as a new farmland preservation plan and shall specify an expiration date for the certification of the revised farmland preservation plan as provided in par. (a).

(3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a county's farmland preservation plan or an amendment to the farmland preservation plan based on the county's certification under s. 91.20 (3), without conducting any additional review or audit.

(b) The department may do any of the following before it certifies a county's farmland preservation plan or amendment:

1. Review the farmland preservation plan or amendment for compliance with s. 91.18.

2. Review and independently verify the application for certification, including the statement under s. 91.20 (3).

(4) DENIAL OF CERTIFICATION. The department shall deny a county's application for certification of a farmland preservation plan or amendment if the department finds any of the following:

(a) That the farmland preservation plan or amendment does not comply with the requirements in s. 91.18.

(b) That the application for certification does not comply with s. 91.20.

(5) WRITTEN DECISION; DEADLINE. The department shall grant or deny an application for certification under this section no more than 90 days after the day on which the county submits a complete application, unless the county agrees to an extension. The department shall issue its decision in the form required by s. 227.47 (1).

(6) CONDITIONAL CERTIFICATION. The department may grant an application for certification under this section subject to conditions specified by the department in its decision under sub. (5). The department may certify a farmland preservation plan or amendment contingent upon the county board adopting the farmland preservation plan or amendment as certified.

(7) EFFECTIVE DATE OF CERTIFICATION. A certification under this section takes effect on the day on which the department issues its decision, except that if the department specifies conditions under sub. (6), the certification takes effect on the day on which the department determines that the county has met the conditions.

(8) EFFECTIVENESS OF PLAN AMENDMENTS. For purposes of this chapter and s. 71.613, a certified farmland preservation plan does not include an amendment adopted after the effective date of this subsection .... [LRB inserts date], unless the department certifies the amendment.

(9) WITHDRAWAL OF CERTIFICATION. The department may withdraw a certification that it granted under sub. (3)

(a) if the department finds that the farmland preservation plan materially violates the requirements under s. 91.18.

91.18 Requirements for certification of plan. (1) A farmland preservation plan qualifies for certification under s. 91.16 if it complies with all of the following:

(a) The requirements in s. 91.10 (1) and (2).

(b) Any other requirements that the department specifies by rule.

(2) An amendment to a farmland preservation plan qualifies for certification under s. 91.16 if it complies with all of the requirements in sub. (1) that are relevant to the amendment and it does not cause the farmland preservation plan to violate any of the requirements in sub. (1).

91.20 Applying for certification of plan. A county seeking certification of a farmland preservation plan or amendment to a farmland preservation plan shall submit all of the following to the department in writing, along with any other relevant information that the county chooses to provide:

(1) The proposed farmland preservation plan or amendment.

(2) All of the following background information:

(a) A concise summary of the farmland preservation plan or amendment, including key changes from any previously certified farmland preservation plan.

(b) A concise summary of the process by which the farmland preservation plan or amendment was developed, including public hearings, notice to and involvement of other governmental units within the county, approval by the county, and identification of any key unresolved issues between the county and other governmental units within the county related to the farmland preservation plan or amendment.

(c) The relationship of the farmland preservation plan or amendment to any county comprehensive plan.

(3) A statement, signed by the county corporation counsel and the county planning director or chief elected official, certifying that the farmland preservation plan or amendment complies with all of the requirements in s. 91.18.

(4) Other relevant information that the department requires by rule.

SUBCHAPTER III
FARMLAND PRESERVATION ZONING

91.30 Authority to adopt. A political subdivision may adopt and administer a farmland preservation zoning ordinance in accordance with s. 59.69, 60.61, 60.62, or 62.23.

91.32 Certified ordinance. The following zoning ordinances are certified, for the purposes of this chapter and s. 71.613:

(1) An exclusive agricultural use zoning ordinance that was certified under s. 91.06, 2007 stats., if the certification has not expired or been withdrawn.

(2) A farmland preservation zoning ordinance that was certified under s. 91.36 if the certification has not expired or been withdrawn.

91.34 Expiration of zoning certification. (1) Except as provided under sub. (4), the certification of a farmland preservation zoning ordinance that was certified under s. 91.06, 2007 stats., expires on the date provided in the certification or, if the certification does not provide an expiration date, on the following date:

(a) December 31, 2012, for a county with an increase in population density of more than 9 persons per square mile or a city, village, or town in such a county.

(b) December 31, 2013, for a county with an increase in population density of more than 3.75 but not more than 9 persons per square mile or a city, village, or town in such a county.

(c) December 31, 2014, for a county with an increase in population density of more than 1.75 but not more than 3.75 persons per square mile or a city, village, or town in such a county.

(d) December 31, 2015, for a county with an increase in population density of more than 0.8 but not more than 1.75 persons per square mile or a city, village, or town in such a county.

(e) December 31, 2016, for a county with an increase in population density of not more than 0.8 person per square mile or a city, village, or town in such a county.

(2) The certification of a farmland preservation zoning ordinance that the department certifies under s. 91.36 expires on the date specified under s. 91.36 (2).

(3) For the purposes of sub. (1), a county's increase in population density is the number by which the county's population per square mile based on the department of administration's 2007 population estimate under s. 16.96 exceeds the county's population per square mile based on the 2000 federal census.

(4) The secretary of agriculture, trade and consumer protection may delay the date for the expiration of a political subdivision's farmland preservation zoning ordinance for up to 2 years beyond the date under sub. (1) upon a written request from the political subdivision demonstrating to the secretary's satisfaction that a delay would allow the political subdivision to concurrently develop a farmland preservation zoning ordinance and a comprehensive plan or an update to a comprehensive plan.

91.36 Certification of zoning ordinance by the department. (1) GENERAL. The department may certify a farmland preservation zoning ordinance or an amendment to a farmland preservation zoning ordinance as provided in this section.

(2) CERTIFICATION PERIOD. (a) The department may certify a farmland preservation zoning ordinance for a period that does not exceed 10 years. The department shall specify the expiration date of the certification of the

farmland preservation zoning ordinance in the certification.

(b) The certification of an amendment to a certified farmland preservation zoning ordinance expires on the date that the certification of the farmland preservation zoning ordinance expires, except that the department may treat a comprehensive revision of a certified farmland preservation zoning ordinance as a new farmland preservation zoning ordinance and specify an expiration date for the certification of the revised farmland preservation zoning ordinance as provided in par. (a).

(3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a farmland preservation zoning ordinance or amendment to a farmland preservation zoning ordinance based on statements submitted under s. 91.40 (3) and (4), without conducting any additional review or audit.

(b) The department may do any of the following before it certifies a farmland preservation zoning ordinance or amendment:

1. Review the farmland preservation zoning ordinance or amendment for compliance with the requirements under s. 91.38.

2. Review and independently verify the application for certification, including the statements under s. 91.40 (3) and (4).

(4) DENIAL OF CERTIFICATION. The department shall deny an application for certification of a farmland preservation zoning ordinance or amendment if the department finds any of the following:

(a) That the farmland preservation zoning ordinance or amendment does not comply with the requirements in s. 91.38.

(b) That the application for certification does not comply with s. 91.40.

(5) WRITTEN DECISION; DEADLINE. The department shall grant or deny an application for certification under this section no more than 90 days after the day on which the political subdivision submits a complete application, unless the political subdivision agrees to an extension. The department shall issue its decision in the form required by s. 227.47 (1).

(6) CONDITIONAL CERTIFICATION. The department may grant an application for certification under this section subject to conditions specified by the department in its decision under sub. (5). The department may certify a farmland preservation zoning ordinance or amendment contingent upon the political subdivision adopting the farmland preservation zoning ordinance or amendment as certified.

(7) EFFECTIVE DATE OF CERTIFICATION. A certification under this section takes effect on the day on which the department issues the certification, except that if the department specifies conditions under sub. (6), the certification takes effect on the day on which the department determines that the political subdivision has met the conditions.

(8) AMENDMENTS TO ORDINANCES; CERTIFICATION. (a) Except as provided in par. (b), an amendment to a certified farmland preservation zoning ordinance is automatically considered to be certified as part of the certified farmland preservation zoning ordinance.

(b) An amendment to a certified farmland preservation zoning ordinance that is one of the following and that is adopted after the effective date of this paragraph .... [LRB inserts date], is not automatically considered to be certified:

1. An amendment that is a comprehensive revision of a certified farmland preservation zoning ordinance.

2. An amendment that extends coverage of a certified farmland preservation zoning ordinance to a town that was not previously covered.

3. An amendment of a type specified by the department by rule that may materially affect compliance of the certified farmland preservation zoning ordinance with the requirements under s. 91.38.

(c) The department may withdraw certification of a farmland preservation zoning ordinance if, as a result of an amendment adopted after the effective date of this paragraph .... [LRB inserts date], the amended farmland preservation zoning ordinance fails to comply with the requirements under s. 91.38. This paragraph applies regardless of whether the farmland preservation zoning ordinance was originally certified under s. 91.06, 2007 stats., or under this section.

(d) A political subdivision shall notify the department in writing whenever the political subdivision adopts an amendment that is described in par. (b) 1. to 3. to a certified farmland preservation zoning ordinance. The political subdivision shall include a copy of the amendment in the notice. This paragraph does not apply to an amendment that rezones land out of a farmland preservation zoning district.

91.38 Requirements for certification of ordinance. (1) A farmland preservation zoning ordinance does not qualify for certification under s. 91.36 unless all of the following apply:

(a) The farmland preservation zoning ordinance includes jurisdictional, organizational, and enforcement provisions that are necessary for proper administration.

(c) The farmland preservation zoning ordinance clearly designates farmland preservation zoning districts in which land uses are limited in compliance with s. 91.42.

(d) The farmland preservation zoning ordinance includes maps that clearly delineate each farmland preservation zoning district, so that a reader can easily determine whether a parcel is within a farmland preservation zoning district; that are correlated to the text under par.

(e); and that comply with technical specifications that the department establishes by rule.

(e) The text of the farmland preservation zoning ordinance clearly describes the types of land uses authorized in each farmland preservation zoning district.

(f) The farmland preservation zoning ordinance is substantially consistent with a certified farmland preservation plan.

(g) Except as provided by the department by rule, land is not included in a farmland preservation zoning district unless the land is included in a farmland preservation area identified in the county certified farmland preservation plan.

(h) If an overlay district, such as an environmental corridor, is superimposed on a farmland preservation zoning district, all of the following apply:

1. The farmland preservation zoning ordinance clearly identifies the overlay district as such.

2. The overlay district is shown on the maps under par. (d) in a way that allows a reader to easily identify the underlying farmland preservation zoning district and its boundaries.

3. The overlay district does not remove land use restrictions from the underlying farmland preservation zoning district.

(i) The farmland preservation zoning ordinance complies with any other requirements that the department specifies by rule.

(2) An amendment to a farmland preservation zoning ordinance qualifies for certification under s. 91.36 if it complies with all of the requirements in sub. (1) that are relevant to the amendment and it does not cause the farmland preservation zoning ordinance to violate any of the requirements in sub. (1).

(3) The limits on land uses in farmland preservation districts under s. 91.42 are minimum standards for certification of a farmland preservation zoning ordinance under s. 91.36.

91.40 Applying for certification of ordinance. A political subdivision seeking certification of a farmland preservation zoning ordinance or amendment to a farmland preservation zoning ordinance shall submit all of the following to the department in writing, along with any other relevant information that the political subdivision chooses to provide:

(1) The complete farmland preservation zoning ordinance or amendment proposed for certification.

(2) All of the following background information:

(a) A concise summary of the farmland preservation zoning ordinance or amendment, including key changes from any previously certified farmland preservation zoning ordinance.

(b) A concise summary of the process by which the farmland preservation zoning ordinance or amendment was developed, including public hearings, notice to and involvement of other governmental units, approval by the political subdivision, and identification of any key unresolved issues with other governmental units related to the farmland preservation zoning ordinance or amendment.

(c) A description of the relationship of the farmland preservation zoning ordinance or amendment to the county certified farmland preservation plan, including any material inconsistencies between the farmland preservation zoning ordinance or amendment and the county certified farmland preservation plan.

(3) A statement, signed by the county planning director or the chief elected official, certifying that the farmland preservation zoning ordinance or amendment complies with s. 91.38 (1) (g) and (h).

(4) A statement, signed by the applicant's attorney or chief elected official, certifying that the farmland preservation zoning ordinance or amendment complies with all applicable requirements in s. 91.38.

(5) Other relevant information that the department requires by rule.

91.42 Land use in farmland preservation zoning districts; general. A farmland preservation zoning ordinance does not qualify for certification under s. 91.36, if the farmland preservation zoning ordinance allows a land use in a farmland preservation zoning district other than the following land uses:

(1) Uses identified as permitted uses in s. 91.44.

(2) Uses identified as conditional uses in s. 91.46.

(3) Prior nonconforming uses, subject to s. 59.69 (10), 60.61 (5), or 62.23 (7) (h).

(4) Other uses allowed by the department by rule.

91.44 Permitted uses. **(1)** Except as provided in s. 84.01 (34), a farmland preservation zoning ordinance does not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a permitted use in a farmland preservation zoning district a land use other than the following land uses:

(a) Agricultural uses.

(b) Accessory uses.

(c) Agriculture–related uses.

(d) Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use under s. 91.46 (1) (e).

(e) Undeveloped natural resource and open space areas.

(f) A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

(g) Other uses identified by the department by rule.

(2) The department may promulgate rules imposing additional limits on the permitted uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with s. 91.42.

91.46 Conditional uses. (1) GENERAL. Except as provided in s. 84.01 (34), a farmland preservation zoning ordinance does not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a conditional use in a farmland preservation zoning district a land use other than the following land uses:

(a) Agricultural uses.

(b) Accessory uses.

(c) Agriculture–related uses.

(d) Nonfarm residences that qualify under sub. (2) or that meet more restrictive standards in the farmland preservation zoning ordinance.

(e) Nonfarm residential clusters that qualify under sub. (3) or that meet more restrictive standards in the farmland preservation zoning ordinance.

(f) Transportation, communications, pipeline, electric transmission, utility, or drainage uses that qualify under sub. (4).

(g) Governmental, institutional, religious, or nonprofit community uses, other than uses covered by par. (f), that qualify under sub. (5).

(h) Nonmetallic mineral extraction that qualifies under sub. (6).

(i) Oil and gas exploration or production that is licensed by the department of natural resources under subch. II of ch. 295.

(j) Other uses allowed by the department by rule.

(1m) ADDITIONAL LIMITATIONS. The department may promulgate rules imposing additional limits on the conditional uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with s. 91.42.

(2) NONFARM RESIDENCES. A proposed new nonfarm residence or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy qualifies for the purposes of sub. (1) (d) if the political subdivision determines that all of the following apply:

(a) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.

(b) There will not be more than 4 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.

(c) The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:

1. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.

2. Significantly impair or limit the current or future agricultural use of other protected farmland.

(3) NONFARM RESIDENTIAL CLUSTER. A political subdivision may issue one conditional use permit that covers more than one nonfarm residence in a qualifying nonfarm residential cluster. A nonfarm residential cluster qualifies for the purposes of sub. (1) (e) if all of the following apply:

(a) The parcels on which the nonfarm residences would be located are contiguous.

(b) The political subdivision imposes legal restrictions on the construction of the nonfarm residences so that if all of the nonfarm residences were constructed, each would satisfy the requirements under sub. (2).

(4) TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRIC TRANSMISSION, UTILITY, OR DRAINAGE USE. A transportation, communications, pipeline, electric transmission, utility, or drainage use qualifies for the purposes of sub. (1) (f) if the political subdivision determines that all of the following apply:

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(c) The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.

(d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

(5) GOVERNMENTAL, INSTITUTIONAL, RELIGIOUS, OR NONPROFIT COMMUNITY USE. A governmental, institutional, religious, or nonprofit community use qualifies for the purposes of sub. (1) (g) if the political subdivision determines that all of the following apply:

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.

(d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

(6) NONMETALLIC MINERAL EXTRACTION. Nonmetallic mineral extraction qualifies for the purposes of sub. (1) (h) if the political subdivision determines that all of the following apply:

(a) The operation complies with subch. I of ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.

(b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.

(d) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.

(e) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(f) The farmland preservation zoning ordinance requires the owner to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.

91.48 Rezoning of land out of a farmland preservation zoning district. **(1)** A political subdivision with a certified farmland preservation zoning ordinance may rezone land out of a farmland preservation zoning district without having the rezoning certified under s. 91.36, if all of the following apply:

(a) The political subdivision finds all of the following, after public hearing:

1. The land is better suited for a use not allowed in the farmland preservation zoning district.

2. The rezoning is consistent with any applicable comprehensive plan.

3. The rezoning is substantially consistent with the county certified farmland preservation plan.

4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(b) Beginning on January 1, 2010, the person who requests the rezoning pays to the political subdivision, for each rezoned acre or portion thereof, a conversion fee equal to the greater of the following:

1. Three times the per acre value, for the year in which the land is rezoned, of the highest value category of tillable cropland in the city, village, or town in which the rezoned land is located, as specified by the department of revenue under s. 73.03 (2a).

2. An amount specified in the certified farmland preservation zoning ordinance.

(2) A political subdivision shall by March of 1 each year provide all of the following to the department:

(a) A report of the number of acres that the political subdivision has rezoned out of a farmland preservation zoning district under sub. (1) during the previous year and a map that clearly shows the location of those acres.

(b) A report of the total amount of conversion fees that the political subdivision received as conversion fees under sub. (1) (b) for the rezoned acres under par. (a).

(c) A conversion fee equal to the amount under sub. (1) (b) 1. for each rezoned acre reported under par. (a).

(3) A political subdivision that is not a county shall by March 1 of each year submit a copy of the information that it reports to the department under sub. (2) (a) and (b) to the county in which the political subdivision is located.

(4) If a political subdivision fails to comply with sub. (2), the department may withdraw the certification granted under s. 91.06, 2007 stats, or under s. 91.36 for the political subdivision's farmland preservation zoning ordinance.

91.49 Use of conversion fee revenues. **(1)** All conversion fees received under s. 91.48 (2) (c) shall be deposited in the working lands fund.

(2) If a political subdivision specifies a conversion fee under s. 91.48 (1) (b) 2. that is higher than the amount that is specified in s. 91.48 (1) (b) 1. and required to be paid to the department under s. 91.48 (2) (c), the political subdivision shall use the difference for its costs related to farmland preservation planning, zoning, or compliance monitoring.

91.50 Exemption from special assessments. **(1)** Except as provided in sub. (3), no political subdivision, special purpose district, or other local governmental entity may levy a special assessment for sanitary sewers or water against land in agricultural use, if the land is located in a farmland preservation zoning district.

(2) A political subdivision, special purpose district, or other local governmental entity may deny the use of improvements for which the special assessment is levied to land that is exempt from the assessment under sub. (1).

(3) The exemption under sub. (1) does not apply to an assessment that an owner voluntarily pays, after the assessing authority provides notice of the exemption under sub. (1).

SUBCHAPTER IV

FARMLAND PRESERVATION AGREEMENTS

91.60 Farmland preservation agreements; general. **(1)** AGREEMENTS AUTHORIZED. The department may enter into a farmland preservation agreement that complies with s. 91.62 with the owner of land that is eligible under sub. (2).

(2) ELIGIBLE LAND. Land is eligible if all of the following apply:

(a) The land is operated as part of a farm that produced at least $6,000 in gross farm revenues during the taxable year preceding the year in which the owner applies for a farmland preservation agreement or a total of at least $18,000 in gross farm revenues during the last 3 taxable years preceding the year in which the owner applies for a farmland preservation agreement.

(b) The land is located in a farmland preservation area identified in a certified farmland preservation plan.

(c) The land is in an agricultural enterprise area designated under s. 91.84.

(3) PRIOR AGREEMENTS. (a) Except as provided in par. (c) or s. 91.66, a farmland preservation agreement entered into before the effective date of this paragraph .... [LRB inserts date], remains in effect for the term specified in the agreement and under the terms that were agreed upon when the agreement was last created, extended, or renewed.

(b) The department may not extend or renew a farmland preservation agreement entered into before the effective date of this paragraph .... [LRB inserts date].

(c) The department and an owner of land who entered into a farmland preservation agreement before the effective date of this paragraph .... [LRB inserts date], may agree to modify the farmland preservation agreement in order to allow the owner to claim the tax credit under s. 71.613 rather than the tax credit for which the owner would otherwise be eligible.

91.62 Farmland preservation agreements; requirements. (1) CONTENTS. The department may not enter into a farmland preservation agreement unless the agreement does all of the following:

(a) Specifies a term of at least 15 years.

(b) Includes a correct legal description of the tract of land covered by the farmland preservation agreement.

(c) Includes provisions that restrict the tract of land to the following uses:

1. Agricultural uses and accessory uses.

2. Undeveloped natural resource and open space uses.

(2) FORM. The department shall specify a form for farmland preservation agreements that complies with s. 59.43 (2m).

(3) EFFECTIVENESS. A farmland preservation agreement takes effect when it is signed by all owners of the land covered by the farmland preservation agreement and by the department.

(4) RECORDING. The department shall provide a copy of a signed farmland preservation agreement to a person designated by the signing owners and shall promptly present the signed agreement to the register of deeds for the county in which the land is located for recording.

(5) CHANGE OF OWNERSHIP. A farmland preservation agreement is binding on a person who purchases land during the term of a farmland preservation agreement that covers the land.

91.64 Applying for a farmland preservation agreement. (1) SUBMITTING AN APPLICATION. An owner who wishes to enter into a farmland preservation agreement shall submit an application, on a form provided by the department, to the county clerk of the county in which the land is located.

(2) CONTENTS OF APPLICATION. A person submitting an application under sub. (1) shall include all of the following in the application:

(a) The name and address of each person who has an ownership interest in the land proposed for coverage by the agreement.

(b) The location of the land proposed for coverage, indicated by street address, global positioning system coordinates, or township, range, and section.

(c) The legal description of the land proposed for coverage.

(d) A map or aerial photograph of the land proposed for coverage, showing parcel boundaries, residences and other structures, and significant natural features.

(e) Information showing that the land proposed for coverage is eligible under s. 91.60 (2).

(f) A description of every existing mortgage, easement, and lien, other than liens on growing crops, on land proposed for coverage, including the name and address of the person holding the lien, mortgage, or easement.

(g) A signed agreement from each person required to be identified under par. (f) subordinating the person's lien, mortgage, or easement to the agreement.

(h) Any other information required by the department by rule.

(i) Any fee under sub. (2m).

(2m) COUNTY PROCESSING FEE. A county may charge a reasonable fee for processing an application for a farmland preservation agreement.

(3) COUNTY REVIEW. (a) A county shall review an application under sub. (2) to determine whether the land proposed for coverage meets the requirements under s. 91.60 (2) (b) and (c). The county shall provide its findings to the applicant in writing within 60 days after the day on which the county clerk receives a complete application.

(b) If the county finds under par. (a) that the land proposed for coverage meets the requirements under s. 91.60 (2) (b) and (c), the county shall promptly send all of the following to the department, along with any other comments that the county chooses to provide:

1. The original application, including all of the information provided with the application.

2. A copy of the county's findings.

(4) DEPARTMENT ACTION ON APPLICATION. (a) The department may prepare a farmland preservation agreement that complies with s. 91.62 and enter into the farmland preservation agreement under s. 91.60 (1) based on

a complete application and on county findings under sub. (3) (b).

(b) The department may decline to enter into a farmland preservation agreement for any of the following reasons:

1. The application is incomplete.

2. The land is not eligible land under s. 91.60 (2).

91.66 Terminating a farmland preservation agreement. (1) The department may terminate a farmland preservation agreement or release land from a farmland preservation agreement at any time if all of the following apply:

(a) All of the owners of land covered by the farmland preservation agreement consent to the termination or release, in writing.

(b) The department finds that the termination or release will not impair or limit agricultural use of other protected farmland.

(c) The owners of the land pay to the department, for each acre or portion thereof released from the farmland preservation agreement, a conversion fee equal to 3 times the per acre value, for the year in which the farmland preservation agreement is terminated or the land is released, of the highest value category of tillable cropland in the city, village, or town in which the land is located, as specified by the department of revenue under s. 73.03 (2a).

(1m) All conversion fees received under sub. (1) (c) shall be deposited in the working lands fund.

(2) The department shall provide a copy of its decision to terminate a farmland preservation agreement or release land from a farmland preservation agreement to a person designated by the owners of the land and shall present a copy of the decision to the register of deeds for the county in which the land is located for recording.

91.68 Violations of farmland preservation agreements. (1) The department may bring an action in circuit court to do any of the following:

(a) Enforce a farmland preservation agreement.

(b) Restrain, by temporary or permanent injunction, a change in land use that violates a farmland preservation agreement.

(c) Seek a civil forfeiture for a change in land use that violates a farmland preservation agreement.

(2) A forfeiture under sub. (1) (c) may not exceed twice the fair market value of the land covered by the agreement at the time of the violation.

91.70 Farmland preservation agreements; exemption from special assessments. (1) Except as provided in sub. (3), no political subdivision, special purpose district, or other local governmental entity may levy a special assessment for sanitary sewers or water against land in agricultural use, if the land is covered by a farmland preservation agreement.

(2) A political subdivision, special purpose district or other local governmental entity may deny the use of improvements for which the special assessment is levied to land that is exempt from the assessment under sub. (1).

(3) The exemption under sub. (1) does not apply to an assessment that an owner voluntarily pays, after the assessing authority provides notice of the exemption under sub. (1).

SUBCHAPTER V

SOIL AND WATER CONSERVATION

91.80 Soil and water conservation by persons claiming tax credits. An owner claiming farmland preservation tax credits under s. 71.613 shall comply with applicable land and water conservation standards promulgated by the department under ss. 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c).

91.82 Compliance monitoring. (1) COUNTY RESPONSIBILITY. (a) A county land conservation committee shall monitor compliance with s. 91.80.

(b) For the purpose of par. (a), a county land conservation committee shall inspect each farm for which the owner claims farmland preservation tax credits under subch. IX of ch. 71 at least once every 4 years.

(c) For the purpose of par (a), a county land conservation committee may do any of the following:

1. Inspect land that is covered by a farmland preservation agreement or farmland preservation zoning and that is in agricultural use.

2. Require an owner to certify, not more than annually, that the owner complies with s. 91.80.

(d) At least once every 4 years, the department shall review each county land conservation committee's compliance with par. (b).

(2) NOTICE OF NONCOMPLIANCE. (a) A county land conservation committee shall issue a written notice of noncompliance to an owner if the committee finds that the owner has done any of the following:

1. Failed to comply with s. 91.80.

2. Failed to permit a reasonable inspection under sub. (1) (c) 1.

3. Failed to certify compliance as required under sub. (1) (c) 2.

(b) A county land conservation committee shall provide to the department of revenue a copy of each notice of noncompliance issued under par. (a).

(c) If a county land conservation committee determines that an owner has corrected the failure described in a notice of noncompliance under par. (a), it shall withdraw the notice of noncompliance and notify the owner and the department of revenue of the withdrawal.

(3) PROCEDURE. The department may promulgate rules prescribing procedures for the administration of this section by land conservation committees.

SUBCHAPTER VI

AGRICULTURAL ENTERPRISE AREAS

91.84 Agricultural enterprise areas; general. (1) DESIGNATION. (a) 1. The department may by rule desig-

nate agricultural enterprise areas targeted for agricultural preservation and development.

2. The department may by rule modify or terminate the designation of an agricultural enterprise area.

(b) Subject to par. (c), the department may designate agricultural enterprise areas with a combined area of not more than 1,000,000 acres of land.

(c) Before January 1, 2012, the department may designate not more than 15 agricultural enterprise areas with a combined area of not more than 200,000 acres of land.

(e) The department may not designate an area as an agricultural enterprise area unless all of the following apply:

1. The department receives a petition requesting the designation and the petition complies with s. 91.86.

3. The parcels in the area are contiguous. Parcels that are only separated by a lake, stream, or transportation or utility right–of–way are contiguous for the purposes of this subdivision.

4. The area is located entirely in a farmland preservation area identified in a certified farmland preservation plan.

5. The land in the area is primarily in agricultural use.

(f) In designating agricultural areas under this subsection, the department shall give preference to areas that include at least 1,000 acres of land.

(2) EMERGENCY RULES. The department may use the procedure under s. 227.24 to promulgate a rule designating an agricultural preservation area or modifying or terminating the designation of an agricultural preservation area. Notwithstanding s. 227.24 (1) (c) and (2), a rule promulgated under this subsection remains in effect until the department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to determine that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(3) EFFECT OF DESIGNATION. The designation of an area under sub. (1) allows owners of eligible land within the area to enter into farmland preservation agreements with the department. If the department modifies or terminates the designation of an area under sub. (1) and that modification or termination results in land covered by a farmland preservation agreement no longer being located in a designated area, the farmland preservation agreement remains in effect for the remainder of its term, but the department may not extend or renew the farmland preservation agreement.

(4) MAP. In a rule designating an agricultural enterprise area, the department shall include a map that clearly shows the boundaries of the proposed agricultural enterprise area so that a reader can easily determine whether a parcel of land is located within the agricultural enterprise area.

(5) EFFECTIVE DATE OF DESIGNATION. The designation of an agricultural enterprise area takes effect on January 1 of the calendar year following the year in which the rule designating the area is published, unless the rule specifies a later effective date.

91.86 Agricultural enterprise area; petition. (1) DEFINITION. In this section, "eligible farm" means a farm that produced at least $6,000 in gross farm revenues during the taxable year preceding the year in which a petition is filed requesting the department to designate an area in which the farm is located as an agricultural enterprise area or a total of at least $18,000 in gross farm revenues during the 3 taxable years preceding the year in which a petition is filed.

(2) PETITIONERS. (a) The department may consider a petition requesting that it designate an area as an agricultural enterprise area if all of the following jointly file the petition:

1. Each political subdivision in which any part of the proposed agricultural enterprise area is located.

2. Owners of at least 5 eligible farms located in the area.

(b) Each petitioner under par. (a) who is an individual shall sign the petition. For a petitioner that is not an individual, an authorized officer or representative shall sign the petition.

(3) CONTENTS OF PETITION. (a) The department may not approve a petition requesting that it designate an area as an agricultural enterprising area unless the petition contains all of the following:

1. The correct legal name and principal address of each petitioner.

2. A summary of the petition that includes the purpose and rationale for the petition.

3. A map that clearly shows the boundaries of the proposed agricultural enterprise area so that a reader can easily determine whether a parcel of land is located within the proposed area.

4. Information showing that the proposed agricultural enterprise area meets the requirements under s. 91.84 (1) (e).

5. A clear description of current land uses in the proposed agricultural enterprise area, including current agricultural uses, agriculture–related uses, transportation, utility, energy, and communication uses, and undeveloped natural resource and open space uses.

6. A clear description of the agricultural land use and development goals for the proposed agricultural enterprise area, including proposed agricultural uses, agriculture–related uses, and relevant transportation, utility, energy, and communication uses.

7. A plan for achieving the goals under subd. 6., including any planned investments, grants, development incentives, cooperative agreements, land or easement purchases, land donations, and promotion and public outreach activities.

8. A description of any current or proposed land use controls in the proposed agricultural enterprise area, including farmland preservation agreements.

(b) Petitioners under sub. (2) may include in the petition the names and addresses of other persons who propose to cooperate in achieving the goals under par. (a) 6.

SECTION 1953. 92.05 (3) (L) of the statutes is amended to read:

92.05 **(3)** (L) *Technical assistance; performance standards.* The department shall provide technical assistance to county land conservation committees and local units of government for the development of ordinances that implement standards adopted under s. 92.07 (2), ~~92.105 (1),~~ 92.15 (2) or (3) or 281.16 (3). The department's technical assistance shall include preparing model ordinances, providing data concerning the standards and reviewing draft ordinances to determine whether the draft ordinances comply with applicable statutes and rules.

SECTION 1954g. 92.07 (15) of the statutes is amended to read:

92.07 **(15)** ADMINISTRATION AND ENFORCEMENT OF ORDINANCES. A land conservation committee may, if authorized by the county board, administer and enforce those provisions of an ordinance enacted under s. 101.65 (1) (a) related to construction site erosion, a zoning ordinance enacted under s. 59.693 or an ordinance enacted under authority granted under s. ~~101.1205~~ 281.33 (3m).

SECTION 1959. 92.104 of the statutes is repealed.

SECTION 1960. 92.105 of the statutes is repealed.

SECTION 1961. 92.106 of the statutes is repealed.

SECTION 1962. 92.14 (2) (e) of the statutes is amended to read:

92.14 **(2)** (e) Promoting ~~compliance with the requirements under ss. 92.104 and 92.105~~ soil and water conservation by persons claiming ~~a~~ farmland preservation ~~credit~~ tax credits under subch. IX of ch. 71.

SECTION 1962t. 92.14 (3) (intro.) of the statutes is amended to read:

92.14 **(3)** BASIC ALLOCATIONS TO COUNTIES. (intro.) To help counties fund their land and water conservation activities, the department shall award an annual grant from the appropriation under s. 20.115 (7) (c), (qe), or ~~(qd)~~ (qf) or s. 20.866 (2) (we) to any county land conservation committee that has a land and water resource management plan approved by the department under s. 92.10 (4) (d), and that, by county board action, has resolved to provide any matching funds required under sub. (5g). The county may use the grant for land and water resource management planning and for any of the following purposes, consistent with the approved land and water resource management plan:

SECTION 1963. 92.14 (3) (a) 1. of the statutes is amended to read:

92.14 **(3)** (a) 1. Compliance with soil and water conservation requirements ~~under ss. 92.104 and 92.105 by~~ applicable to persons claiming ~~a~~ farmland preservation ~~credit~~ tax credits under subch. IX of ch. 71.

SECTION 1964. 92.14 (3) (d) of the statutes is amended to read:

92.14 **(3)** (d) Implementing land and water resource management projects undertaken to comply with ~~the~~ soil and water conservation requirements ~~under ss. 92.104 and 92.105 by~~ applicable to persons claiming ~~a~~ farmland preservation ~~credit~~ tax credits under subch. IX of ch. 71.

SECTION 1970. 93.06 (10m) of the statutes is amended to read:

93.06 **(10m)** FARMLAND PRESERVATION COLLECTIONS. Enter into contracts to collect amounts owed to the state under ch. 91, 2007 stats., as the result of the relinquishment of, or the release of land from, a farmland preservation agreement or as the result of the rezoning of land zoned for exclusive agricultural use.

SECTION 1971. 93.20 (2) of the statutes is amended to read:

93.20 **(2)** ENFORCEMENT COSTS ORDER. If a court imposes costs under s. 814.04 or 973.06 against a defendant in an action, the court may order that defendant to ~~pay~~ ~~to~~ reimburse the department ~~any of the~~ for reasonable, documented enforcement costs ~~specified under sub. (3) that~~ incurred by the department ~~has incurred~~ to prepare and prosecute that action. The prosecutor shall present evidence of the enforcement costs and the defendant shall be given an opportunity to refute that evidence. If any cost that a court orders a defendant to pay under this section may also be recovered by the department under s. 814.04 or 973.06, the department may recover that cost only under this section, but that cost is not limited to the amounts specified in s. 814.04 or 973.06.

SECTION 1972. 93.20 (3) of the statutes is repealed.

SECTION 1973. 93.20 (4) of the statutes is repealed.

SECTION 1973e. 93.23 (1) (intro.) of the statutes is amended to read:

93.23 **(1)** STATE AID TO COUNTY FAIRS AND AGRICULTURAL SOCIETIES. (intro.) State aid appropriated by s. 20.115 (4) (b) and (t) to counties and agricultural societies, associations or boards shall be paid subject to the following conditions:

SECTION 1973f. 93.23 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act .... (this act), is amended to read:

93.23 **(1)** STATE AID TO COUNTY FAIRS AND AGRICULTURAL SOCIETIES. (intro.) State aid appropriated by s. 20.115 (4) (b) ~~and (t)~~ to counties and agricultural societies, associations or boards shall be paid subject to the following conditions:

SECTION 1973i. 93.23 (1) (a) 1. (intro.) of the statutes is amended to read:

93.23 **(1)** (a) 1. (intro.) To each county, and any organized agricultural society, association, or board in the state that complies with the requirements of this section, 95 percent of the first $8,000 paid in net premiums and

70 percent of all net premiums paid in excess of $8,000 at its annual fair upon livestock, articles of production, educational exhibits, agricultural implements and tools, domestic manufactures, mechanical implements, and productions, but not more than $10,000 per fair, subject to equitable prorating if the total amount due exceeds the amount available and to all of the following:

SECTION 1974. 93.53 of the statutes is created to read:

93.53 Beginning farmer and farm asset owner tax credit eligibility. (1) DEFINITIONS. In this section:

(a) "Agricultural asset" means machinery, equipment, facilities, or livestock that is used in farming.

(b) "Beginning farmer" means an individual who meets the conditions specified in sub. (2).

(c) "Educational institution" means the Wisconsin Technical College System, the University of Wisconsin–Extension, the University of Wisconsin–Madison, or any other institution that is approved by the department under sub. (6) (a).

(d) "Established farmer" means a person who meets the conditions specified in sub. (3).

(e) "Farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.

(f) "Financial management program" means a course in farm financial management that is offered by an educational institution.

(2) BEGINNING FARMER. An individual is a beginning farmer for the purposes of s. 71.07 (8r), 71.28 (8r), or 71.47 (8r) if, at the time that the individual submits an application under sub. (4), all of the following apply:

(a) The individual has a net worth of less than $200,000.

(b) The individual has farmed for fewer than 10 years out of the preceding 15 years.

(c) The individual has entered into a lease for a term of at least 3 years with an established farmer for the use of the established farmer's agricultural assets by the beginning farmer.

(d) The individual uses the leased agricultural assets for farming.

(3) ESTABLISHED FARMER. A person is an established farmer for the purposes of s. 71.07 (8r), 71.28 (8r), or 71.47 (8r) if, at the time that the person submits an application under sub. (4), all of the following apply:

(a) The person has engaged in farming for a total of at least 10 years.

(b) The person owns agricultural assets.

(c) The person has entered into a lease for a term of at least 3 years with a beginning farmer for the use of the person's agricultural assets by the beginning farmer.

(4) APPLICATIONS. (a) In order for an experienced farmer to claim the farm asset owner tax credit under s. 71.07 (8r) (b) 2., 71.28 (8r), or 71.47 (8r), the experienced farmer and the beginning farmer who is leasing agricultural assets from the experienced farmer shall each submit an application to the department.

(b) An established farmer shall include in the application under this subsection the established farmer's name and address, information showing that the established farmer satisfies the conditions in specified in sub. (3), a description of the leased agricultural assets and their location, a copy of the lease, and any other information required by the department.

(c) A beginning farmer shall include all of the following in an application under this subsection:

1. The beginning farmer's name and address.

2. Information showing that the beginning farmer satisfies the conditions in sub. (2).

3. A business plan that includes a current balance sheet and projected balance sheets for 3 years, cash flow statements, and income statements along with a detailed description of all significant accounting assumptions used in developing the financial projections.

4. A description of the beginning farmer's education, training, and experience in the type of farming in which the beginning farmer uses the leased agricultural assets.

5. A copy of the beginning farmer's completed federal profit or loss from farming form, schedule F, or other documentation approved by the department under sub. (6).

6. Any other information required by the department.

(d) If a beginning farmer wishes to claim the beginning farmer educational credit under s. 71.07 (8r) (b) 1., the beginning farmer shall also include in the application under this subsection a description of the financial management program completed by the beginning farmer and a statement of the amount that the beginning farmer paid the educational institution to enroll in the financial management program.

(5) EVALUATION AND CERTIFICATION. (a) The department shall review applications submitted under sub. (4) (a).

(b) The department shall provide an established farmer with a certificate of eligibility for the farm asset owner tax credit under s. 71.07 (8r) (b) 2., 71.28 (8r), or 71.47 (8r) if all of the following apply:

1. The established farmer's application complies with sub. (4) (b).

2. The beginning farmer's application complies with sub. (4) (c).

3. The department determines that the business plan submitted under sub. (4) (c) 3. and the education, training, or experience described under sub. (4) (c) 4. show that the beginning farmer has sufficient resources and education, training, or experience for the type of farming in which the beginning farmer uses the leased agricultural assets.

(c) The department shall provide a beginning farmer with a certificate of eligibility for the beginning farmer educational credit under s. 71.07 (8r) (b) 1. if the department has issued a certificate of eligibility under par. (b) for the experienced farmer from whom the beginning

farmer leases farm assets and the information provided under sub. (4) (d) shows that the beginning farmer has completed a financial management program.

(6) DEPARTMENT AUTHORITY. (a) The department may approve providers of courses in farm financial management for the purposes of the beginning farmer educational credit under s. 71.07 (8r) (b) 1.

(b) The department may approve alternative documentation for the purposes of sub. (4) (c) 5.

(c) The department may assist beginning farmers to develop business plans for the purposes of sub. (4) (c) 3. and may assist in the negotiation of leases of farm assets that may enable persons to qualify for tax credits under s. 71.07 (8r), 71.28 (8r), or 71.47 (8r).

SECTION 1977. 93.73 of the statutes is created to read:

93.73 Purchase of agricultural conservation easements.

(1) LEGISLATIVE FINDINGS. The legislature finds all of the following:

(a) That the preservation of farmland is important for current and future agricultural production in this state, including the production of food and other products needed to sustain the life, health, and welfare of the people of this state.

(b) That the preservation of farmland is important for the current and future state economy and for the current and future environment of this state.

(c) That purchases of agricultural conservation easements, as provided in this section, serve important public purposes of statewide significance.

(1m) DEFINITIONS. In this section:

(a) "Agricultural conservation easement" means a conservation easement, as defined in s. 700.40 (1) (a), the purpose of which is to assure the availability of land for agricultural use.

(b) "Agricultural use" means any of the following:

1. Any of the following activities conducted for the purpose of producing an income or livelihood:

a. Crop or forage production.

b. Keeping livestock.

c. Beekeeping.

d. Nursery, sod, or Christmas tree production.

e. Floriculture.

f. Aquaculture.

g. Fur farming.

h. Forest management.

i. Enrollment of land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

2. Any other use that the department, by rule, identifies as an agricultural use.

(c) "Cooperating entity" means a political subdivision or nonprofit conservation organization.

(d) "Fair market value" means value as determined by a professional appraisal that is approved by the department.

(dm) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

(e) "Nonprofit conservation organization" means a nonstock corporation, charitable trust, or other entity whose purposes include the acquisition of property for conservation or agricultural preservation purposes, that is described in section 501 (c) (3) of the Internal Revenue Code, that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code, and that is a qualified organization under section 170 (h) (3) of the Internal Revenue Code.

(f) "Political subdivision" means a city, village, town, or county.

(g) "Professional appraisal" means an appraisal conducted by a certified general appraiser, as defined in s. 458.01 (8).

(h) "Purchase cost" means the amount paid to a landowner to acquire an agricultural conservation easement from the landowner.

(i) "Transaction costs" means out-of-pocket expenses incurred in connection with the acquisition, processing, recording, and documentation of an agricultural conservation easement, including out-of-pocket expenses for land surveys, land descriptions, real estate appraisals, title verification, preparation of legal documents, reconciliation of conflicting property interests, documentation of existing land uses, and closing. "Transaction costs" does not include costs incurred by a cooperating entity for staffing, overhead, or operations.

(2) PROGRAM. (a) The department shall administer a program under which it, together with cooperating entities, purchases agricultural conservation easements from willing landowners. The department may pay as its share of the cost to purchase an agricultural conservation easement under this section an amount that does not exceed the sum of the following:

1. Fifty percent of the fair market value of the agricultural conservation easement.

2. The reasonable transaction costs related to the purchase of the agricultural conservation easement.

(am) The willingness of a landowner to convey an agricultural conservation easement for less than full market value does not reduce the amount that the department may pay as its share of the cost to purchase the agricultural conservation easement.

(b) The department, after consultation with the council under sub. (13), shall solicit applications under sub. (3) at least annually. The department shall issue each solicitation in writing and shall publish a notice announcing the solicitation. In soliciting applications, the department may specify the total amount of funds available, application deadlines, application requirements and procedures, preliminary criteria for evaluating applications, and other relevant information.

(3) APPLICATION. A cooperating entity may apply to participate in the program under this section by submitting an application that complies with requirements contained in the department's solicitation under sub. (2) (b) and that contains all of the following:

(a) Identifying information for the cooperating entity, including information showing that the cooperating entity is a political subdivision or nonprofit conservation organization.

(b) A description of the land that would be subject to the proposed agricultural conservation easement, including location, acreage, and current use.

(c) The name and address of each owner of land that would be subject to the proposed agricultural conservation easement.

(d) Evidence that all of the owners under par. (c) are willing to convey the proposed agricultural conservation easement.

(e) An indication that the cooperating entity is willing to arrange the purchase of the proposed agricultural conservation easement in accordance with this section and share in the purchase cost, subject to reimbursement under sub. (9) of the department's agreed upon share of the costs.

(f) The purpose of and rationale for the proposed agricultural conservation easement.

(g) Information needed to evaluate the application using the criteria in sub. (4) and in the department's solicitation under sub. (2) (b).

(4) APPLICATION EVALUATION CRITERIA. The department may not approve an application under sub. (3) unless all of the land that would be subject to the proposed agricultural conservation easement is in a farmland preservation area, as defined in s. 91.01 (16), and the department determines that purchase of the proposed agricultural conservation easement will serve a public purpose. In making this determination, the department shall consider all of the following criteria:

(a) The value of the proposed agricultural conservation easement in preserving or enhancing agricultural production capacity in this state.

(b) The importance of the proposed agricultural conservation easement in protecting or enhancing the waters of the state or in protecting or enhancing other public assets.

(c) The extent to which the proposed agricultural conservation easement would conserve important or unique agricultural resources, such as prime soils and soil resources that are of statewide importance or are unique.

(d) The extent to which the proposed agricultural conservation easement would be consistent with local land use plans and zoning ordinances, including any certified farmland preservation plans and zoning ordinances under ch. 91.

(e) The extent to which the proposed agricultural conservation easement would enhance an agricultural enterprise area designated under s. 91.84.

(f) The availability, practicality, and effectiveness of other methods to preserve the land that would be subject to the proposed agricultural conservation easement.

(h) The proximity of the land that would be subject to the proposed agricultural conservation easement to other land that is protected for agricultural use or conservation use and the extent to which the proposed agricultural conservation easement would enhance that protection.

(i) The likely cost–effectiveness of the proposed agricultural conservation easement in preserving land for agricultural use.

(j) The likelihood that the land that would be subject to the proposed agricultural conservation easement would be converted to nonagricultural use if the land is not protected by the proposed agricultural conservation easement.

(k) The apparent willingness of each landowner to convey the proposed agricultural conservation easement.

(5) PRELIMINARY APPROVAL OF APPLICATIONS. The department may give preliminary approval to an application under sub. (3) after evaluating the application under sub. (4) and consulting with the council under sub. (13). The department shall give its preliminary approval in writing. Approval of an application is contingent on the signing of a contract under sub. (6m).

(6) INFORMATION RELATED TO PROPOSED EASEMENT. A cooperating entity that receives a preliminary approval under sub. (5) shall submit all of the following to the department:

(a) A copy of the proposed instrument for conveying the agricultural conservation easement.

(b) A professional appraisal of the proposed agricultural conservation easement, other than an appraisal obtained by an owner of the land that would be subject to the proposed agricultural conservation easement.

(c) A statement of the purchase cost of the agricultural conservation easement.

(d) An estimate of the transaction costs that the cooperating entity will incur in connection with the purchase of the proposed agricultural conservation easement.

(e) The record of a complete search of title records that verifies ownership of the land that would be subject to the proposed agricultural conservation easement and identifies any potentially conflicting property interests, including any liens, mortgages, easements, or reservations of mineral rights.

(f) Documentation showing to the satisfaction of the department that any material title defects will be eliminated and any materially conflicting property interests

will be subordinated to the proposed agricultural conservation easement or eliminated.

(6d) SECOND APPRAISAL. The department shall obtain its own independent appraisal of a proposed agricultural conservation easement for which the department has given preliminary approval under sub. (5) if the fair market value of the proposed agricultural conservation easement is estimated by the department to be more than $350,000.

(6h) REVIEW BY JOINT COMMITTEE ON FINANCE. The department may not enter into a contract under sub. (6m) with respect to the purchase of a proposed conservation easement if the department's share of the purchase costs and transaction costs would exceed $750,000 unless it first notifies the joint committee on finance in writing of the proposal. If the cochairpersons of the committee do not notify the department within 14 working days after the date of the department's notification that the committee has scheduled a meeting to review the proposal, the department may enter into the contract. If, within 14 working days after the date of the notification by the department, the cochairpersons of the committee notify the department that the committee has scheduled a meeting to review the proposal, the department may enter into the contract only upon approval of the committee. A proposal as submitted by the department is approved unless a majority of the members of the committee who attend the meeting to review the proposal vote to modify or deny the proposal.

(6m) CONTRACT WITH COOPERATING ENTITY. Subject to subs. (6d) and (6h), after a cooperating entity complies with sub. (6) and the department determines that the proposed instrument of conveyance complies with sub. (7), the department and the cooperating entity may enter into a written contract that specifies the terms and conditions of the department's participation in the purchase of the proposed agricultural conservation easement. The cooperating entity shall agree to pay the full purchase cost and the transaction costs related to the purchase of the proposed agricultural conservation easement, subject to reimbursement under sub. (9) of the department's agreed upon share of the costs.

(7) PURCHASE OF EASEMENT. After a cooperating entity has entered into a contract under sub. (6m), the cooperating entity may, in accordance with the contract, purchase the agricultural conservation easement on behalf of the cooperating entity and the department if the agricultural conservation easement does all of the following:

(a) Prohibits the land subject to the agricultural conservation easement from being developed for a use that would make the land unavailable or unsuitable for agricultural use.

(b) Continues in perpetuity.

(c) Provides that the cooperating entity and the department, on behalf of this state, are both holders of the agricultural conservation easement.

(d) Prohibits any holder of the agricultural conservation easement other than the department from transferring or relinquishing the holder's interest without 60 days' prior notice to the department.

(e) Complies with any other conditions specified in the contract under sub. (6m).

(8) ACCEPTANCE AND RECORDING OF EASEMENT. A cooperating entity that purchases an agricultural conservation easement under sub. (7) shall submit the agricultural conservation easement to the department for its acceptance. Upon acceptance by the department, the cooperating entity shall promptly record the agricultural conservation easement and acceptance with the register of deeds of the county in which the land subject to the agricultural conservation easement is located and shall provide to the department a copy of the recorded instrument conveying the agricultural conservation easement, certified by the register of deeds under s. 59.43 (1) (i).

(9) PAYMENT. The department shall reimburse a cooperating entity for the department's agreed upon portion of the purchase cost and transaction costs related to the purchase of an agricultural conservation easement after the cooperating entity does all of the following:

(a) Complies with sub. (8).

(b) Submits documentation showing that any material title defects have been eliminated and any materially conflicting property interests have been eliminated or subordinated to the agricultural conservation easement, as required by the contract under sub. (6m).

(c) Submits proof of the amount of the purchase cost and transaction costs that the cooperating entity has paid, consistent with the contract under sub. (6m).

(10) TRANSFER OR RELINQUISHMENT OF HOLDER'S INTEREST. The transfer or relinquishment of another holder's interest does not affect the department's interest in an agricultural conservation easement.

(11) ENFORCEMENT OF EASEMENT. The department or any other holder of an agricultural conservation easement purchased under this section may enforce and defend the agricultural conservation easement.

(12) RECORD OF EASEMENTS. The department shall maintain a record of all agricultural conservation easements purchased under this section.

(13) COUNCIL. The department shall appoint a council under s. 15.04 (1) (c) to advise the department on the administration of this section.

(14) RULES. The department shall promulgate a rule, consistent with sub. (1m) (i), relating to allowable transaction costs for the program under this section.

SECTION 1978. 94.38 (3) of the statutes is repealed.

SECTION 1979. 94.38 (4) of the statutes is repealed.

SECTION 1980. 94.38 (4m) of the statutes is repealed.

SECTION 1981. 94.38 (5) of the statutes is repealed.

SECTION 1982. 94.38 (6) of the statutes is repealed.

SECTION 1983. 94.38 (8) of the statutes is amended to read:

94.38 (**8**) "Labeler" means any person who as grower, processor, jobber, distributor or seller labels ~~seed~~ or accepts responsibility for labeling information pertaining to any container or lot of agricultural seed or vegetable seed and whose name and address ~~is~~ are required by the department by rule to appear on the label ~~under s. 94.39~~.

SECTION 1984. 94.38 (9) of the statutes is repealed.

SECTION 1985. 94.38 (12) of the statutes is repealed.

SECTION 1986. 94.38 (13) of the statutes is repealed.

SECTION 1987. 94.38 (15) of the statutes is repealed.

SECTION 1988. 94.38 (19) of the statutes is repealed.

SECTION 1989. 94.38 (20) of the statutes is repealed.

SECTION 1990. 94.38 (21) of the statutes is repealed.

SECTION 1991. 94.38 (22) of the statutes is repealed.

SECTION 1992. 94.38 (23) of the statutes is repealed.

SECTION 1993. 94.38 (24) of the statutes is repealed.

SECTION 1994. 94.385 of the statutes is amended to read:

94.385 Seed label ~~locations~~ requirements. (**1**) ~~Each~~ No person may sell, distribute, or offer or expose for sale in this state a container of agricultural seed or vegetable seed ~~which is sold, distributed or offered or exposed for sale within this state~~ for seeding or sprouting purposes ~~shall bear or have~~ unless the container bears or has attached to it in a conspicuous place a label containing the information ~~specified in s. 94.39~~ required by the department by rule.

(**2**) Except as provided under s. 94.43 (2), ~~each~~ no person may sell in this state a bulk lot of agricultural or vegetable seed ~~sold within this state~~ for seeding or sprouting purposes ~~shall include~~ unless the person includes with the invoice or shipping document furnished the purchaser at time of delivery a label containing the information ~~specified in s. 94.39~~ required by the department by rule.

SECTION 1995. 94.39 of the statutes is repealed.

SECTION 1996. 94.40 (1) of the statutes is repealed.

SECTION 1997. 94.40 (2) of the statutes is amended to read:

94.40 (**2**) The Wisconsin Crop Improvement Association, a nonprofit organization incorporated under the laws of this state, in cooperation with the University of Wisconsin–Madison College of Agricultural and Life Sciences and the department, shall be the ~~seed~~ certifying agency for the certification of agricultural seed and vegetable seed in the state.

SECTION 1998. 94.40 (3) of the statutes is amended to read:

94.40 (**3**) The Wisconsin Crop Improvement Association, in cooperation with the University of Wisconsin–Madison College of Agricultural and Life Sciences and the department, shall establish standards and procedures for the certification of agricultural seed and vegetable seed, subject to approval of the department. Standards and procedures established under this subsection shall comply with rules promulgated by the department and be no less stringent than those prescribed by the ~~association of official seed certifying agencies~~ Association of Official Seed Certifying Agencies.

SECTION 1999. 94.40 (4) of the statutes is created to read:

94.40 (**4**) The Wisconsin Crop Improvement Association, in cooperation with the University of Wisconsin–Madison College of Agricultural and Life Sciences and the department, shall be the certifying agency for the certification of weed free mulch, hay, and straw, and shall base its certifications on the standards of the North American Weed Management Association.

SECTION 2000. 94.41 (1) (a) of the statutes is amended to read:

94.41 (**1**) (a) Unless the test to determine the percentage of germination required ~~under s. 94.39~~ by the department by rule is completed within a 12–month period immediately prior to the ~~date it~~ end of the month in which the seed is sold, distributed or offered or exposed for sale, ~~as shown by records, exclusive of the calendar month in which the test is completed,~~ except that ~~seeds~~ seed packaged in hermetically sealed containers may be sold, distributed or offered or exposed for sale under ~~such~~ any conditions ~~as~~ that the department ~~may prescribe~~ prescribes by rule, for a period of 36 months following the end of the month in which the ~~seeds are~~ seed is tested. No ~~seeds~~ seed in hermetically sealed containers ~~shall~~ may be sold, distributed or offered or exposed for sale beyond ~~such~~ that 36–month period unless it is retested within the ~~preceding~~ 9–month period~~, exclusive of the calendar month in which the retest is completed. Seed, for which the germination test date has expired, shall be relabeled by a licensed labeler prior to its being sold, distributed or offered or exposed for sale~~ immediately prior to the end of the month in which it is sold, distributed, or offered or exposed for sale and the retested seed is labeled with the extended expiration date.

SECTION 2001. 94.41 (1) (b) of the statutes is amended to read:

94.41 (**1**) (b) Not labeled in accordance with ~~s. 94.39~~ rules promulgated by the department, or containing any labeling statements which modify or deny label information required under ~~s. 94.39~~ rules promulgated by the department, or having any other false or misleading labeling.

SECTION 2002. 94.41 (1) (e) of the statutes is repealed.

SECTION 2003. 94.41 (1) (f) of the statutes is repealed.

SECTION 2004. 94.41 (1) (g) of the statutes is repealed.

SECTION 2005. 94.41 (2) (a) of the statutes is amended to read:

94.41 (**2**) (a) To detach, alter, deface or destroy any label attached to or accompanying seed, or to alter or substitute seed in a manner which would defeat the purposes of ~~s. 94.39~~ the rules of the department relating to the labeling of seed or result in the sale or distribution of seed in violation of ss. 94.38 to 94.46 or rules ~~thereunder~~ promulgated under those sections.

SECTION 2006. 94.41 (2) (e) of the statutes is amended to read:

94.41 (**2**) (e) To use the word "trace" as a substitute for any labeling required under ~~s. 94.39~~ rules of the department relating to the composition of seeds or seed mixtures.

SECTION 2007. 94.43 (1) of the statutes is amended to read:

94.43 (**1**) Every person whose name and address are required to appear on the label of any seed as the labeler or person responsible for the labeling ~~thereof~~ of the seed under ~~s. 94.39, or~~ the rules of the department relating to the labeling of seed, and every person who opens any bag or container of seed and sells any part of the seed contained therein, shall obtain a seed labeler's license from the department before selling, distributing or offering or exposing, ~~such~~ the seed for sale in this state.

SECTION 2008. 94.43 (3) (intro.) of the statutes is amended to read:

94.43 (**3**) (intro.) Application for a seed labeler's license shall be submitted on a form prescribed by the department and shall be accompanied by a fee based on the gross sales of seed within the state by the applicant under his or her own label during the previous 12 months prior to filing the application. Fees for a labeler's license shall be computed on gross sales according to the following schedule, except that the department may specify different fees by rule:

SECTION 2009. 94.43 (3) (b) of the statutes is amended to read:

94.43 (**3**) (b) For gross sales that are $10,000 or more but less than ~~$25,000~~ $50,000: $50.

SECTION 2010. 94.43 (3) (c) of the statutes is amended to read:

94.43 (**3**) (c) For gross sales that are ~~$25,000~~ $50,000 or more but less than ~~$75,000~~ $100,000: $100.

SECTION 2011. 94.43 (3) (d) of the statutes is amended to read:

94.43 (**3**) (d) For gross sales that are ~~$75,000~~ $100,000 or more but less than ~~$200,000: $150~~ $250,000: $300.

SECTION 2012. 94.43 (3) (e) of the statutes is amended to read:

94.43 (**3**) (e) For gross sales that are ~~$200,000~~ $250,000 or more: ~~$200~~ but less than $500,000: $500.

SECTION 2013. 94.43 (3) (f) of the statutes is created to read:

94.43 (**3**) (f) For gross sales that are $500,000 or more but less than $1,000,000: $750.

SECTION 2014. 94.43 (3) (g) of the statutes is created to read:

94.43 (**3**) (g) For gross sales that are $1,000,000 or more but less than $10,000,000: $1,000.

SECTION 2015. 94.43 (3) (h) of the statutes is created to read:

94.43 (**3**) (h) For gross sales that are $10,000,000 or more but less than $100,000,000: $1,500.

SECTION 2016. 94.43 (3) (i) of the statutes is created to read:

94.43 (**3**) (i) For gross sales that are $100,000,000 or more: $2,500.

SECTION 2017. 94.44 of the statutes is amended to read:

94.44 Records. Each person whose name is required to appear on the label as the labeler of agricultural or vegetable seeds ~~pursuant to s. 94.39~~ under rules of the department shall maintain complete records of each lot of seed sold or labeled for a period of 2 years after final sale or disposition ~~thereof~~ of the seed, except that a file sample of ~~such~~ the seed need be kept for only one year. ~~This~~ and except that this section ~~shall not be construed as requiring~~ does not require a record of the sale or disposal of each portion of a lot sold at retail in quantities of less than 40 pounds. All records and samples pertaining to any lot of seed shall be accessible for inspection by the department during customary business hours.

SECTION 2018. 94.45 (intro.) and (1) to (5) of the statutes are renumbered 94.45 (1) (intro.) and (a) to (e).

SECTION 2019. 94.45 (6) of the statutes is repealed and recreated to read:

94.45 (**6**) The department shall promulgate rules that do all of the following:

(a) Prescribe standards for the labeling, distribution, and sale of agricultural seed and vegetable seed.

(b) Govern methods of sampling, inspecting, analyzing, testing, and examining agricultural seed and vegetable seed.

(c) Prescribe tolerances for purity and rate of germination of agricultural seed and vegetable seed.

(d) Prescribe tolerances for the occurrence of noxious weed seeds in agricultural seed and vegetable seed.

(e) Identify noxious weeds and prohibited noxious weeds.

(f) Govern the issuance of seed labeler licenses.

(g) Govern the administration and enforcement of ss. 94.38 to 94.46.

SECTION 2021. 95.55 (2) of the statutes is amended to read:

95.55 (**2**) APPLICATION. A person shall register under this section using a form provided by the department. The form shall be accompanied by the ~~fee~~ applicable fees

specified under sub. (3). Upon registration, the department shall issue the person a registration certificate.

SECTION 2022. 95.55 (3) (title) of the statutes is repealed and recreated to read:

95.55 (**3**) (title) REGISTRATION FEE; REINSPECTION FEE.

SECTION 2023. 95.55 (3) of the statutes is renumbered 95.55 (3) (a).

SECTION 2024. 95.55 (3) (b) of the statutes is created to read:

95.55 (**3**) (b) 1. If the department reinspects the premises where farm–raised deer are kept because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the person registered under this section the reinspection fee specified under subd. 2.

2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the premises. The department may specify different reinspection fees for different premises.

3. A reinspection fee under this paragraph is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a registration renewal application form to the person registered to keep farm–raised deer under this section.

SECTION 2025. 95.60 (4) (a) of the statutes is amended to read:

95.60 (**4**) (a) The department ~~shall~~ may inspect a fish farm upon initial registration under sub. (3m)~~. The department may inspect a fish farm~~ and at any other time.

SECTION 2026. 95.60 (5) of the statutes is amended to read:

95.60 (**5**) The department shall, by rule, specify the fees for permits, certificates, registration and inspections under this section, including any reinspection fees required under sub. (5m).

SECTION 2027. 95.60 (5m) of the statutes is created to read:

95.60 (**5m**) (a) If the department reinspects a fish farm because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the fish farm operator the reinspection fee specified under par. (b).

(b) The department shall specify the reinspection fee to be charged under par. (a) by rule. The reinspection fee may not exceed the reasonable costs to reinspect the fish farm. The department may specify different reinspection fees for different fish farms.

(c) A reinspection fee under this subsection is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a registration renewal application form to the fish farm operator.

SECTION 2028. 95.68 (4) of the statutes is repealed and recreated to read:

95.68 (**4**) LICENSE FEE; REINSPECTION FEE. (a) The department shall, by rule, specify the fee for an animal market license issued under this section.

(b) 1. If the department reinspects an animal market because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the animal market operator the reinspection fee specified under subd. 2.

2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the animal market. The department may specify different reinspection fees for different animal markets.

3. A reinspection fee under this paragraph is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to the animal market operator.

SECTION 2029. 95.68 (8) of the statutes is amended to read:

95.68 (**8**) RULES. The department may promulgate rules ~~to specify license fees under sub. (4) or~~ to regulate the operation of animal markets, including rules related to market operator qualifications, market construction and maintenance, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

SECTION 2030. 95.69 (4) (title) of the statutes is repealed and recreated to read:

95.69 (**4**) (title) LICENSE FEE; REINSPECTION FEE.

SECTION 2031. 95.69 (4) of the statutes is renumbered 95.69 (4) (a) and amended to read:

95.69 (**4**) (a) ~~Unless the~~ The department ~~specifies a different fee~~ shall, by rule, specify the fee for an animal dealer license ~~is $75~~ issued under this section.

SECTION 2032. 95.69 (4) (b) of the statutes is created to read:

95.69 (**4**) (b) 1. If the department reinspects an animal dealer operation because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the animal dealer the reinspection fee specified under subd. 2.

2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the animal dealer operation. The department may specify different reinspection fees for different animal dealer operations.

3. A reinspection fee under this paragraph is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to the animal dealer.

SECTION 2033. 95.69 (8) of the statutes is amended to read:

95.69 (**8**) RULES. The department may promulgate rules ~~to specify license fees under sub. (4) or~~ to regulate animal dealers, including rules related to animal dealer qualifications, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

SECTION 2034. 95.71 (5) of the statutes is amended to read:

95.71 (**5**) ~~FEES~~ LICENSE FEE; REGISTRATION FEE; REINSPECTION FEE. (a) ~~Unless the~~ The department ~~specifies different fees~~ shall, by rule, ~~an applicant for an animal trucker license shall pay a~~ specify the fee ~~in an amount equal to $20 plus $5 for each animal transport vehicle registered with the applicant's~~ for an animal trucker license ~~application under sub. (3)~~ issued under this section.

(b) The department shall, by rule, specify the fee to be paid for each animal transport vehicle registered under sub. (4). If during any license year an animal trucker registers an animal transport vehicle that was not registered with the animal trucker's annual license application under sub. (3), the animal trucker shall~~,~~ pay the fee required under this paragraph at the time of ~~the additional~~ registration~~, pay a registration fee of $5 for each animal transport vehicle registered~~.

SECTION 2035. 95.71 (5) (c) of the statutes is created to read:

95.71 (**5**) (c) 1. If the department reinspects an animal trucker operation because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the animal trucker the reinspection fee specified under subd. 2.

2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the animal trucker operation. The department may specify different reinspection fees for different animal trucker operations.

3. A reinspection fee under this paragraph is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application form to the animal trucker.

SECTION 2036. 95.71 (8) of the statutes is amended to read:

95.71 (**8**) RULES. The department may promulgate rules ~~to specify license fees under sub. (5) or~~ to regulate animal truckers, including rules related to animal trucker qualifications, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

SECTION 2037r. 97.60 of the statutes is created to read:

97.60 Meat and poultry inspection fee. The department shall promulgate a rule specifying a fee to be used to fund meat and poultry inspection under s. 97.42. In promulgating the rule, the department shall consult with representatives of industries and groups that would be affected by the fee. The department may not promulgate a rule under this section requiring a person operating a plant where animals are slaughtered to pay a fee based on the number of animals slaughtered. The department may not require payment of the fee under this section before July 1, 2010.

SECTION 2038. 98.16 (title) of the statutes is amended to read:

98.16 (title) **~~Licensing of vehicle~~ Vehicle scale operators; scale installation and testing.**

SECTION 2039. 98.16 (2) (title) of the statutes is amended to read:

98.16 (**2**) (title) LICENSE FOR OPERATOR.

SECTION 2040. 98.16 (2) (a) 1. of the statutes is renumbered 98.16 (2) (am) and amended to read:

98.16 (**2**) (am) Except as provided in ~~subd. 2., a~~ par. (dm), no person may ~~not~~ operate a vehicle scale without ~~a~~ an annual license from the department. A separate license is required for each scale. A license is not transferable between persons or scales. A license expires on March 31 annually.

(bm) The department shall provide a license application form for persons applying for a license. The form ~~may~~ shall require all of the following:

3. Other information reasonably required by the department for licensing purposes.

(cm) A license application shall be accompanied by ~~applicable fees under pars. (b) and (c).~~ all of the following fees and surcharges:

SECTION 2041. 98.16 (2) (a) 2. of the statutes is renumbered 98.16 (2) (dm) and amended to read:

98.16 (**2**) (dm) ~~Subdivision 1.~~ Paragraph (am) does not apply to a person who operates a vehicle scale only as an employee of a person who is required to hold a license to operate the scale under this ~~paragraph~~ subsection.

SECTION 2042. 98.16 (2) (b) of the statutes is renumbered 98.16 (2) (cm) 1. and amended to read:

98.16 (**2**) (cm) 1. A license fee. The fee for a license under ~~par. (a)~~ this subsection is ~~$60~~ $100, except that the department may establish a different fee by rule promulgated under sub. (4).

SECTION 2043. 98.16 (2) (bm) 1. of the statutes is created to read:

98.16 (2) (bm) 1. The applicant's correct legal name and business address and any trade name under which the applicant proposes to operate the vehicle scale.

SECTION 2044. 98.16 (2) (bm) 2. of the statutes is created to read:

98.16 (2) (bm) 2. A description of the nature and location of the vehicle scale.

SECTION 2045. 98.16 (2) (c) of the statutes is renumbered 98.16 (2) (cm) 2. and amended to read:

98.16 (2) (cm) 2. ~~An applicant for a license under par. (a) shall pay a~~ A license fee surcharge ~~of $200 in addition to the license fee,~~ if the department determines that within one year prior to submitting the license application the applicant operated a vehicle scale without a license as required by par. ~~(a)~~ (am). The license fee surcharge is $200, except that the department may establish a different surcharge by rule promulgated under sub. (4). The department may not issue a license under this subsection to an operator if the operator has failed to pay a license fee surcharge assessed against the operator. Payment of the license fee surcharge does not relieve the applicant of any other civil or criminal liability for the operation of a vehicle scale without a license but shall not constitute evidence of violation of a law.

SECTION 2046. 98.16 (2) (d) of the statutes is repealed.

SECTION 2047. 98.16 (2m) of the statutes is created to read:

98.16 (2m) PERMIT FOR SCALE INSTALLATION OR CONSTRUCTION; VARIANCE. (a) No person may install or relocate a vehicle scale without a permit from the department. The department shall provide a permit application form for a person applying for a permit under this paragraph. An application for a permit under this paragraph shall be accompanied by a nonrefundable permit application fee in an amount established by the department by rule promulgated under sub. (4).

(b) A person who installs or relocates a vehicle scale shall comply with construction, operation, and maintenance standards and procedures established by the department by rule under sub. (4), except that the department may grant a variance from a construction standard if the department determines that the variance is justified by special circumstances. The department may impose conditions on the variance, including alternative construction standards, if the department determines the conditions are necessary. The department shall provide a variance application form for a person applying for a variance under this paragraph. An application for a variance under this paragraph shall be accompanied by a nonrefundable variance application fee in an amount established by the department by rule promulgated under sub. (4).

SECTION 2048. 98.16 (3) (intro.) of the statutes is renumbered 98.16 (4) and amended to read:

98.16 (4) RULES. The department ~~may~~ shall promulgate rules ~~to establish license fees under sub. (2) (b) and~~ to regulate the construction, operation, testing, and maintenance of vehicle scales. ~~The rules may include all of the following:~~ The department may promulgate rules to adjust fees and surcharges under subs. (2) (cm) 1. and 2. and (2m) (a) and (b) and to impose a testing surcharge upon a vehicle scale operator if the operator fails to file a vehicle scale test report as required by a rule promulgated by the department under this subsection.

SECTION 2049. 98.16 (3) (a) of the statutes is repealed.

SECTION 2050. 98.16 (3) (b) of the statutes is repealed.

SECTION 2051. 98.16 (3) (c) of the statutes is repealed.

SECTION 2052. 98.16 (3m) (b) 1. of the statutes is created to read:

98.16 (3m) (b) 1. Conduct the test and prepare a test report, according to rules promulgated by the department under sub. (4).

SECTION 2053. 98.16 (3m) (b) 2. of the statutes is created to read:

98.16 (3m) (b) 2. Provide a copy of the test report to the operator of the vehicle scale and, if required by rules promulgated by the department under sub. (4), to other persons.

SECTION 2054. 98.16 (3m) (c) of the statutes is created to read:

98.16 (3m) (c) An operator of a vehicle scale shall file with the department a copy of each test report prepared regarding the vehicle scale not more than 15 days after the operator receives the test report. If an operator fails to file a report as required in this paragraph, the department may assess a testing surcharge against the operator. The department may not issue a license under sub. (2) to an operator if the operator has failed to pay a testing surcharge assessed against the operator. If an operator fails to pay a testing surcharge assessed against the operator within 120 days after the department assessed the surcharge, the department may revoke the operator's license to operate the vehicle scale for which the operator has been assessed the surcharge.

SECTION 2055. 98.224 of the statutes is created to read:

98.224 Vehicle tank meters. (1) DEFINITION. In this section, "vehicle tank meter" means a commercial meter used to measure liquid fuel, as defined in s. 98.225 (1).

(2) OPERATOR LICENSED. (a) Except as provided in par. (e), no person may operate a vehicle tank meter without an annual license from the department. An annual license expires on October 31. A separate license is required for each vehicle tank meter. A license is not transferable between persons or vehicle tank meters.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle tank meter.

2. A description of the vehicle tank meter, including the serial number or other identifying marks that appear on the meter and the vehicle on which the meter is mounted.

3. The fees and surcharges required under par. (c).

4. Other relevant information reasonably required by the department for licensing purposes.

(c) An application under par. (b) shall include all of the following fees and surcharges:

1. A license fee established by the department by rule.

2. A surcharge established by the department by rule, if the department determines that within one year prior to submitting the application, the applicant operated the vehicle tank meter without a license required under par. (a). The department may not issue a license under this subsection to an operator if the operator has failed to pay a surcharge under this subdivision assessed against the operator.

3. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant failed to comply with the reporting requirement under sub. (3). The department may not issue a license under this subsection to an operator if the operator has failed to pay a surcharge under this subdivision assessed against the operator.

4. Reinspection fees, if any, required under s. 98.255.

(d) Payment of a surcharge under par. (c) 2. or 3. does not relieve the applicant of any other civil or criminal liability for a law violation, but is not evidence of a violation of this section.

(e) Paragraph (a) does not apply to an individual who operates a vehicle tank meter only as an employee of a person who is required to hold a license under par. (a) to operate that vehicle tank meter.

(3) TESTING AND REPORTING. The operator of a vehicle tank meter shall have the meter tested for accuracy at least annually by a person who is licensed under s. 98.18 (1) to perform the testing. The operator, or the tester on behalf of the operator, shall report the results of each test to the department within 30 days after the testing is completed. The operator shall retain a test report for at least 3 years.

(4) RULES. (a) The department shall promulgate rules that establish all of the following:

1. License fee and surcharge amounts under sub. (2) (c).

2. Standards for the testing, reporting, and record keeping required under sub. (3).

(b) The department may promulgate rules that establish standards for the construction, operation, and maintenance of vehicle tank meters.

SECTION 2056. 98.245 (4) (a) of the statutes is amended to read:

98.245 **(4)** (a) When liquefied petroleum gas is sold or delivered to a consumer as a liquid and by liquid measurement the volume of liquid so sold and delivered shall be corrected to a temperature of 60 degrees Fahrenheit through use of an approved volume correction factor table, or through use of a meter that is equipped with a sealed automatic compensating mechanism and that ~~is in compliance with sub. (7)~~ has been tested as required under sub. (8). All sale tickets shall show the delivered gallons, the temperature at the time of delivery and the corrected gallonage, or shall state that temperature correction was automatically made.

SECTION 2057. 98.245 (4) (b) of the statutes is amended to read:

98.245 **(4)** (b) When liquefied petroleum gas is sold or delivered to a consumer in vapor form by vapor measurement, the volume of vapor so sold and delivered shall be corrected to a temperature of 60 degrees Fahrenheit through the use of a meter that is equipped with a sealed automatic temperature compensating mechanism. This paragraph shall apply to all meters installed for use in the vapor measurement of liquefied petroleum gas in vapor form after May 24, 1978. This paragraph does not prohibit the continued use of meters previously installed without a self–sealing automatic temperature compensating mechanism, but no such meter may be continued in use after January 1, 1986, unless brought into compliance with this paragraph. Subsection ~~(7)~~ (8) does not apply to meters used to sell or deliver liquefied petroleum gas that are subject to this paragraph.

SECTION 2058. 98.245 (6) (a) (intro.) of the statutes is amended to read:

98.245 **(6)** (a) (intro.) No person may sell liquefied petroleum gas and deliver it by a vehicle equipped with a pump and meter unless the meter is equipped with a delivery ticket printer and ~~is in compliance with sub. (7)~~ has been tested as required under sub. (8). Except as provided in par. (b), the seller shall, at the time of delivery, either provide a copy of the delivery ticket printed by the delivery ticket printer to the purchaser or leave a copy at the place of delivery. The delivery ticket shall contain all of the following information:

SECTION 2059. 98.245 (7) of the statutes is repealed.

SECTION 2060. 98.245 (7m) of the statutes is created to read:

98.245 **(7m)** METER OPERATORS LICENSED. (a) No person may operate a meter to determine the amount of liquefied petroleum gas sold or delivered under sub. (4) (a) unless the person holds an annual license from the department under this subsection. An annual license

expires on November 30. A separate license is required for each liquefied petroleum gas meter. A license is not transferable between persons or meters.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the liquefied petroleum gas meter.

2. A description of the liquefied petroleum gas meter, including the serial number or other identifying marks that appear on the meter, and if applicable, the vehicle on which the meter is mounted.

3. The fees and surcharges required under par. (c).

4. Other relevant information reasonably required by the department for licensing purposes.

(c) An application under par. (b) shall include the following fees and surcharges:

1. A license fee established by department rule.

2. A surcharge established by department rule, if the department determines that, within one year prior to submitting the application, the applicant operated the liquefied petroleum gas meter without a license required under par. (a). The department may not issue a license under this subsection to an operator if the operator has failed to pay a surcharge under this subdivision assessed against the operator.

3. A surcharge established by the department by rule if the department determines that, within one year prior to submitting the application, the applicant failed to comply with a test reporting requirement under sub. (8). The department may not issue a license under this subsection to an operator if the operator has failed to pay a surcharge under this subdivision assessed against the operator.

4. Reinspection fees, if any, required under s. 98.255.

(d) Payment of a surcharge under par. (c) 2. or 3. does not relieve the applicant of any other civil or criminal liability for a law violation, but is not evidence of a violation of this section.

(e) Paragraph (a) does not apply to an individual who operates a liquefied petroleum gas meter only as an employee of a person who is required to hold a license under par. (a) to operate that meter.

SECTION 2061. 98.245 (8) of the statutes is created to read:

98.245 (**8**) TESTING AND REPORTING. A person that is required to hold a license under sub. (7m) to operate a liquefied petroleum gas meter shall have the meter tested for accuracy, at least annually, by a person who is licensed under s. 98.18 (1) to perform the test. The meter operator, or the tester on behalf of the meter operator, shall report the results of each test to the department within 30 days after the testing is completed. The operator shall retain a record of each test for at least 3 years.

SECTION 2062. 98.245 (9) of the statutes is created to read:

98.245 (**9**) RULES. (a) The department shall promulgate rules that establish all of the following:

1. License fee and surcharge amounts under sub. (7m) (c).

2. Standards for the testing, reporting, and record keeping required under sub. (8).

(b) The department may promulgate rules that establish standards for the construction, operation, and maintenance of liquefied petroleum gas meters.

SECTION 2063. 98.25 (title) of the statutes is renumbered 98.16 (3m) (title) and amended to read:

98.16 (**3m**) (title) ~~VEHICLE SCALES: ANNUAL~~ ANNUAL TESTING.

SECTION 2064. 98.25 (1) of the statutes is renumbered 98.16 (3m) (a) and amended to read:

98.16 (**3m**) (a) The owner or operator of a scale with a weighing capacity of 5,000 pounds or more used for the commercial weighing of commodities shall cause the scales to be tested and inspected at least annually for accuracy by ~~an independent scale testing or service company in accordance with specifications, tolerances, standards and procedures established by the national institute of standards and technology and the department for the testing and examination of scales, using test weights approved by the department. The annual tests and inspections shall be at the expense of the owner or operator~~ a person licensed under s. 98.18 (1).

SECTION 2065. 98.25 (2) of the statutes is renumbered 98.16 (3m) (b) (intro.) and amended to read:

98.16 (**3m**) (b) (intro.) A ~~scale testing or service company~~ person conducting a test under ~~sub. (1)~~ par. (a) shall~~,~~ ~~at the time of testing and inspection, promptly furnish to the owner or operator of the scale a report showing the results of the test and inspection with an additional copy for the department. The owner and operator of a scale which is found to be inaccurate at the time of testing shall immediately withdraw the scale from further use until necessary corrections, adjustments or repairs are made and~~ do all of the following:

(d) If a test under this subsection shows that a vehicle scale is inaccurate, the scale may not be used until the inaccuracy is corrected and the scale is determined to be accurate by ~~the scale testing or service company. A copy of the report prepared by the scale testing or service company shall be filed with the department by the owner or operator of the scale within 15 days after the test and inspection has been completed. The department shall maintain a list open for public inspection of all scales tested and found to be accurate on the annual test~~ a subsequent test under this subsection.

SECTION 2066. 98.25 (3) of the statutes is renumbered 98.16 (3m) (e) and amended to read:

98.16 (**3m**) (e) No person may falsify a test ~~or determination of the accuracy of a vehicle scale tested under sub. (1) or file with the department a false report of a test~~

~~of a vehicle scale under sub. (1),~~ test result, or test report under this subsection.

SECTION 2067. 98.25 (4) of the statutes is renumbered 98.16 (3m) (f).

SECTION 2068. 98.255 of the statutes is created to read:

98.255 Reinspection; fee. (1) If the department reinspects a weight or measure because the department has found a violation of this chapter or a rule promulgated under this chapter, the department may charge the operator of the weight or measure a reinspection fee.

(2) The department shall establish the amount of the reinspection fee under sub. (1) by rule and may establish different reinspection fees for different types of weights and measures. The amount of a reinspection fee for a weight or measure may not exceed the department's average cost to reinspect that type of weight or measure.

(3) A reinspection fee under sub. (1) is payable after the reinspection is completed and is due upon written demand from the department. The department may issue a demand for payment when it issues an annual license application form to the operator of the weighing or measuring device.

SECTION 2073. 100.45 (1) (dm) of the statutes is amended to read:

100.45 (1) (dm) "State agency" means any office, department, agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law which is entitled to expend moneys appropriated by law, including the legislature and the courts, the Wisconsin Housing and Economic Development Authority, the Bradley Center Sports and Entertainment Corporation, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care Authority, and the Fox River Navigational System Authority.

SECTION 2074f. 101.02 (20) (a) of the statutes, as affected by 2009 Wisconsin Act 16, is repealed and recreated to read:

101.02 (**20**) (a) For purposes of this subsection, "license" means a license, permit, or certificate of certification or registration issued by the department under ss. 101.09 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or 167.10 (6m).

SECTION 2074h. 101.02 (21) (a) of the statutes, as affected by 2009 Wisconsin Act 16, is repealed and recreated to read:

101.02 (**21**) (a) In this subsection, "license" means a license, permit, or certificate of certification or registration issued by the department under s. 101.09 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or 167.10 (6m).

SECTION 2075c. 101.1205 (title) of the statutes is repealed.

SECTION 2075d. 101.1205 (1) of the statutes is renumbered 281.33 (3m) (a) and amended to read:

281.33 (**3m**) (a) The department~~, in consultation with the department of natural resources,~~ shall establish statewide standards for erosion control at building sites for the construction of public buildings, as defined in s. 101.01 (12), and buildings that are places of employment, as defined in s. 101.02 (11).

SECTION 2075e. 101.1205 (2) of the statutes is renumbered 281.33 (3m) (b) and amended to read:

281.33 (**3m**) (b) The department shall require the submission of plans for erosion control at construction sites described in ~~sub. (1)~~ par. (a) to the department or to a county, city, village, or town to which the department has delegated authority under ~~sub. (4)~~ par. (d) and shall require approval of those plans by the department or the county, city, village, or town.

SECTION 2075f. 101.1205 (3) of the statutes is renumbered 281.33 (3m) (c) and amended to read:

281.33 (**3m**) (c) The department shall require inspection of erosion control activities and structures at construction sites described in ~~sub. (1)~~ par. (a) by the department or a county, city, village, or town to which the department has delegated authority under ~~sub. (4)~~ par. (d).

SECTION 2075g. 101.1205 (4) of the statutes is renumbered 281.33 (3m) (d).

SECTION 2075gm. 101.1205 (5) of the statutes is renumbered 281.33 (3m) (e) and amended to read:

281.33 (**3m**) (e) Except as provided in ~~sub. (5m)~~ par. (f), the authority of a county, city, village, or town with respect to erosion control at sites described in ~~sub. (1)~~ par. (a) is limited to that authority delegated under ~~sub. (4)~~ par. (d) and any other authority provided in rules promulgated under this ~~section~~ subsection.

SECTION 2075h. 101.1205 (5m) of the statutes is renumbered 281.33 (3m) (f) and amended to read:

281.33 (**3m**) (f) Notwithstanding ~~subs. (1)~~ pars. (a) and ~~(5)~~ (e), a county, city, village, or town that has in effect on January 1, 1994, an ordinance that establishes standards for erosion control at building sites for the construction of public buildings and buildings that are places of employment may continue to administer and enforce that ordinance if the standards in the ordinance are more stringent than the standards established under ~~sub. (1)~~ par. (a).

SECTION 2075i. 101.1205 (6) of the statutes is renumbered 281.33 (3m) (g) and amended to read:

281.33 (**3m**) (g) The department, or a county, city, village, or town to which the department delegates the authority to act under this ~~subsection~~ paragraph, may issue a special order directing the immediate cessation of work on a construction site described in ~~sub. (1)~~ par. (a) until any required plan approval is obtained or until the site complies with standards established by rules promulgated under this ~~section~~ subsection.

SECTION 2075j. 101.1205 (7) of the statutes is renumbered 281.33 (3m) (h).

SECTION 2153. 101.143 (4) (ei) 1m. a. of the statutes is amended to read:

101.143 (**4**) (ei) 1m. a. The owner or operator of the farm tank owns a parcel of 35 or more acres of contiguous land, on which the farm tank is located, which is devoted primarily to agricultural use, as defined in s. 91.01 ~~(1)~~ (2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding submission of a first claim under sub. (3) produced gross farm profits, as defined in s. 71.58 (4), of not less than $6,000 or which, during the 3 years preceding that submission produced gross farm profits, as defined in s. 71.58 (4), of not less than $18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that submission, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 2154. 101.143 (4) (ei) 1m. b. of the statutes is amended to read:

101.143 (**4**) (ei) 1m. b. The claim is submitted by a person who, at the time that the notification was made under sub. (3) (a) 3., was the owner of the farm tank and owned a parcel of 35 or more acres of contiguous land, on which the farm tank is or was located, which was devoted primarily to agricultural use, as defined in s. 91.01 ~~(1)~~ (2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding that notification produced gross farm profits, as defined in s. 71.58 (4), of not less than $6,000 or which, during the 3 years preceding that notification, produced gross farm profits, as defined in s. 71.58 (4), of not less than $18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that notification, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 2155. 101.1435 of the statutes is created to read:

101.1435 Removal of abandoned underground petroleum storage tanks. (**1**) In this section:

(a) "Backfill" does not include landscaping or replacing sidewalk, asphalt, fence, or sod or other vegetation.

(b) "Underground petroleum product storage tank system" has the meaning given in s. 101.143 (1) (i).

(**2**) The department may contract with a person registered or certified under s. 101.09 (3) to empty, clean, remove, and dispose of an underground petroleum product storage tank system; to assess the site on which the underground petroleum product storage tank system is located; and to backfill the excavation if all of the following apply:

(a) The department determines that the underground petroleum product storage tank system is abandoned.

(b) Using the method that the department uses to determine inability to pay under s. 101.143 (4) (ee), the department determines that the owner of the underground petroleum product storage tank system is unable to pay to empty, clean, remove, and dispose of the underground petroleum product storage tank system; to assess the site on which the underground petroleum product storage tank system is located; and to backfill the excavation.

(**3**) If the department incurs costs under sub. (2), the department shall record a statement of lien with the register of deeds of the county in which the underground petroleum product storage tank system was located. Upon recording the statement of lien, the department has a lien on the property on which the underground petroleum product storage tank system was located in the amount of the costs incurred. The property remains subject to the lien until that amount is paid in full to the department. The department shall deposit payments received under this subsection into the petroleum inspection fund.

SECTION 2155m. 101.147 of the statutes is created to read:

101.147 Contractor registration. (**1**) No person may hold himself or herself out or act as a construction contractor unless that person is registered as a construction contractor by the department.

(**2**) The department shall promulgate rules to administer and enforce this section.

(**3**) The department may directly assess a forfeiture by issuing an order against any person who violates this section.

(**4**) The registration requirement under sub. (1) does not apply to any of the following:

(a) A person who engages in construction on property owned or leased by that person.

(b) A state agency or local governmental unit.

(c) A person who engages in construction in the course of his or her employment by a state agency or local governmental unit.

SECTION 2156. 101.177 (1) (d) of the statutes is amended to read:

101.177 (**1**) (d) "State agency" means any office, department, agency, institution of higher education, association, society, or other body in state government

created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, the Wisconsin Housing and Economic Development Authority, the Bradley Center Sports and Entertainment Corporation, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care Authority, and the Wisconsin Health and Educational Facilities Authority, but excluding the Health Insurance Risk–Sharing Plan Authority and the Lower Fox River Remediation Authority.

SECTION 2156c. 101.19 (1) (m) of the statutes is created to read:

101.19 **(1)** (m) Registering construction contractors under s. 101.147.

SECTION 2157r. 101.85 of the statutes is created to read:

101.85 Contracting for services. (1) In this section, "cost–benefit analysis" means a comprehensive study to identify and compare the total cost, quality, technical expertise, and timeliness of a service performed by department employees and resources with the total cost, quality, technical expertise, and timeliness of the same service obtained by means of a contract.

(2) The department may not engage any person who is not an employee of the department to perform services for the department under this subchapter unless the department finds, based upon a cost–benefit analysis, that those services can be performed more cost–effectively and efficiently by that person than by an employee of the department.

SECTION 2158. 101.9208 (4m) of the statutes is amended to read:

101.9208 **(4m)** Upon filing an application under sub. (1) or (4), a supplemental title fee to be paid by the owner of the manufactured home, except that this fee shall be waived with respect to an application under sub. (4) for transfer of a decedent's interest in a manufactured home to his or her surviving spouse or domestic partner under ch. 770. The fee required under this subsection shall be paid in addition to any other fee specified in this section.

SECTION 2158h. 102.07 (8) (d) of the statutes is created to read:

102.07 **(8)** (d) Any employer described in s. 108.18 (2) (c) who willfully and with intent to evade any requirement of this chapter misclassifies or attempts to misclassify an individual who is an employee of the employer as a nonemployee shall be fined $25,000 for each violation.

SECTION 2159. 102.475 (6) of the statutes is amended to read:

102.475 **(6)** PROOF. In administering this section the department may require reasonable proof of birth, marriage, domestic partnership under ch. 770, relationship, or dependency.

SECTION 2160. 102.49 (1) of the statutes is amended to read:

102.49 **(1)** ~~Where~~ When the beneficiary under s. 102.46 or 102.47 (1) is the ~~wife or husband~~ spouse or domestic partner under ch. 770 of the deceased employee and is wholly dependent for support, an additional death benefit shall be paid from the funds provided by sub. (5) for each child by their marriage or domestic partnership under ch. 770 who is living at the time of the death of the employee, and who is likewise wholly dependent upon the employee for support. ~~Such~~ That payment shall commence at the time that primary death benefit payments are completed, or, if advancement of compensation has been paid, at the time when payments would normally have been completed. Payments shall continue at the rate of 10% of the surviving parent's weekly indemnity until the child's 18th birthday. If the child is physically or mentally incapacitated, ~~such~~ payments may be continued beyond the child's 18th birthday but the payments may not continue for more than a total of 15 years.

SECTION 2161. 102.49 (2) of the statutes is amended to read:

102.49 **(2)** A child lawfully adopted by the deceased employee and the surviving spouse or domestic partner under ch. 770, prior to the time of the injury, and a child not the deceased employee's own by birth or adoption but living with the deceased employee as a member of the deceased employee's family at the time of the injury shall for the purpose of this section be taken as a child by their marriage or domestic partnership under ch. 770.

SECTION 2162. 102.49 (3) of the statutes is amended to read:

102.49 **(3)** If the employee leaves a spouse or domestic partner under ch. 770 wholly dependent and also a child by a former marriage, domestic partnership under ch. 770, or adoption, likewise wholly dependent, aggregate benefits shall be the same in amount as if the child were the child of the surviving spouse or partner, and the entire benefit shall be apportioned to the dependents in the amounts that the department ~~shall determine~~ determines to be just, considering the ages of the dependents and other factors bearing on dependency. The benefit awarded to the surviving spouse or partner shall not exceed 4 times the average annual earnings of the deceased employee.

SECTION 2163. 102.51 (1) (a) 2m. of the statutes is created to read:

102.51 **(1)** (a) 2m. A domestic partner under ch. 770 upon his or her partner with whom he or she is living at the time of the partner's death.

SECTION 2164. 102.51 (2) (a) of the statutes is amended to read:

102.51 **(2)** (a) No person shall be considered a dependent unless that person is a spouse, a domestic partner under ch. 770, a divorced spouse who has not remarried, or a lineal descendant, lineal ancestor, brother, sister, or other member of the family, whether by blood or by adoption, of the deceased employee.

SECTION 2165. 102.51 (6) of the statutes is amended to read:

102.51 **(6)** DIVISION AMONG DEPENDENTS. Benefits accruing to a minor dependent child may be awarded to either parent in the discretion of the department. Notwithstanding sub. (1), the department may reassign the death benefit, in accordance with their respective needs ~~therefor~~ for the death benefit as between a surviving spouse or a domestic partner under ch. 770 and children designated in sub. (1) and s. 102.49.

SECTION 2166. 102.64 (1) of the statutes is amended to read:

102.64 **(1)** Upon request of the department of administration, a representative of the department of justice shall represent the state in cases involving payment into or out of the state treasury under s. 20.865 (1) (fm), (kr), or (ur) or 102.29. The department of justice, after giving notice to the department of administration, may compromise the amount of ~~such~~ those payments but such compromises shall be subject to review by the department of workforce development. If the spouse or domestic partner under ch. 770 of the deceased employee compromises his or her claim for a primary death benefit, the claim of the children of ~~such~~ the employee under s. 102.49 shall be compromised on the same proportional basis, subject to approval by the department. If the persons entitled to compensation on the basis of total dependency under s. 102.51 (1) compromise their claim, payments under s. 102.49 (5) (a) shall be compromised on the same proportional basis.

SECTION 2169. 103.10 (1) (a) (intro.) of the statutes is amended to read:

103.10 **(1)** (a) (intro.) "Child" means a natural, adopted, ~~foster or treatment~~ or foster child, a stepchild, or a legal ward to whom any of the following applies:

SECTION 2170. 103.10 (1) (ar) of the statutes is created to read:

103.10 **(1)** (ar) "Domestic partner" has the meaning given in s. 40.02 (21c) or 770.01 (1).

SECTION 2171. 103.10 (1) (b) of the statutes is amended to read:

103.10 **(1)** (b) "Employee" means an individual employed in this state by an employer, except the employer's parent, spouse, domestic partner, or child.

SECTION 2171r. 103.10 (1) (e) of the statutes is amended to read:

103.10 **(1)** (e) "Health care provider" means a person described under s. 146.81 (1) (a) to (p), but does not include a person described under s. 146.81 (1) (hp).

SECTION 2172. 103.10 (1) (f) of the statutes is amended to read:

103.10 **(1)** (f) "Parent" means a natural parent, foster parent, treatment foster parent, adoptive parent, stepparent, or legal guardian of an employee or of an employee's spouse or domestic partner.

SECTION 2173. 103.10 (1) (f) of the statutes, as affected by 2009 Wisconsin Act .... (this act), is amended to read:

103.10 **(1)** (f) "Parent" means a natural parent, foster parent, ~~treatment foster parent,~~ adoptive parent, stepparent, or legal guardian of an employee or of an employee's spouse or domestic partner.

SECTION 2174. 103.10 (3) (b) 3. of the statutes is amended to read:

103.10 **(3)** (b) 3. To care for the employee's child, spouse, domestic partner, or parent, if the child, spouse, domestic partner, or parent has a serious health condition.

SECTION 2175. 103.10 (6) (b) (intro.) of the statutes is amended to read:

103.10 **(6)** (b) (intro.) If an employee intends to take family leave because of the planned medical treatment or supervision of a child, spouse, domestic partner, or parent or intends to take medical leave because of the planned medical treatment or supervision of the employee, the employee shall do all of the following:

SECTION 2176. 103.10 (6) (b) 1. of the statutes is amended to read:

103.10 **(6)** (b) 1. Make a reasonable effort to schedule the medical treatment or supervision so that it does not unduly disrupt the employer's operations, subject to the approval of the health care provider of the child, spouse, domestic partner, parent, or employee.

SECTION 2177. 103.10 (7) (a) of the statutes is amended to read:

103.10 **(7)** (a) If an employee requests family leave for a reason described in sub. (3) (b) 3. or requests medical leave, the employer may require the employee to provide certification, as described in par. (b), issued by the health care provider or Christian Science practitioner of the child, spouse, domestic partner, parent, or employee, whichever is appropriate.

SECTION 2178. 103.10 (7) (b) 1. of the statutes is amended to read:

103.10 **(7)** (b) 1. That the child, spouse, domestic partner, parent, or employee has a serious health condition.

SECTION 2180. 103.10 (12) (c) of the statutes is amended to read:

103.10 **(12)** (c) If 2 or more health care providers disagree about any of the information required to be certified under sub. (7) (b), the department may appoint another health care provider to examine the child, spouse, domestic partner, parent, or employee and render an opinion as soon as possible. The department shall promptly notify the employee and the employer of the appointment. The employer and the employee shall each pay 50% of the cost of the examination and opinion.

SECTION 2181. 103.165 (3) (a) 1. of the statutes is amended to read:

103.165 (3) (a) 1. The decedent's surviving spouse or domestic partner under ch. 770.

SECTION 2182. 103.165 (3) (a) 2. of the statutes is amended to read:

103.165 (3) (a) 2. The decedent's children if the decedent ~~shall leave~~ leaves no surviving spouse or domestic partner under ch. 770.

SECTION 2183. 103.165 (3) (a) 3. of the statutes is amended to read:

103.165 (3) (a) 3. The decedent's father or mother if the decedent ~~shall leave~~ leaves no surviving spouse, domestic partner under ch. 770, or children.

SECTION 2184. 103.165 (3) (a) 4. of the statutes is amended to read:

103.165 (3) (a) 4. The decedent's brother or sister if the decedent ~~shall leave~~ leaves no surviving spouse, domestic partner under ch. 770, children, or parent.

SECTION 2185. 103.165 (3) (c) of the statutes is amended to read:

103.165 (3) (c) The amount of the cash bond, together with principal and interest, to which the deceased employee would have been entitled had the deceased employee lived, shall, as soon as paid out by the depository, be turned over to the ~~relative of the deceased employee~~ person designated under par. (a) effecting the accounting and withdrawal with the employer. The turning over shall be a discharge and release of the employer to the amount of the payment.

SECTION 2186. 103.165 (3) (d) of the statutes is amended to read:

103.165 (3) (d) If no ~~relatives~~ persons designated under par. (a) survive, the employer may apply the cash bond, or so much of the cash bond as may be necessary, to paying creditors of the decedent in the order of preference prescribed in s. 859.25 for satisfaction of debts by personal representatives. The making of payment under this paragraph shall be a discharge and release of the employer to the amount of the payment.

SECTION 2186f. 103.457 of the statutes is amended to read:

103.457 Listing deductions from wages. An employer shall state clearly on the employee's pay check, pay envelope, or paper accompanying the wage payment the amount of and reason for each deduction from the wages due or earned by the employee, except such miscellaneous deductions as may have been authorized by request of the individual employee for reasons personal to the employee. A reasonable coding system may be used by the employer. If the department finds that an employer has failed to state that information clearly as required under this section, the department may order the employer to pay the employee, as liquidated damages, not less than $50 nor more than $500 for each violation.

SECTION 2186t. 103.49 (1) (a) of the statutes is amended to read:

103.49 (1) (a) "Area" means the county in which a proposed project of public works that is subject to this section is located or, if the department determines that there is insufficient wage data in that county, "area" means those counties that are contiguous to that county or, if the department determines that there is insufficient wage data in those counties, "area" means those counties that are contiguous to those counties or, if the department determines that there is insufficient wage data in those counties, "area" means the entire state or, if the department is requested to review a determination under sub. (3) (c), "area" means the city, village, or town in which a proposed project of public works that is subject to this section is located.

SECTION 2186u. 103.49 (1) (am) of the statutes is created to read:

103.49 (1) (am) "Bona fide economic benefit" means an economic benefit for which an employer makes irrevocable contributions to a trust or fund created under 29 USC 186 (c) or to any other bona fide plan, trust, program, or fund no less often than quarterly or, if an employer makes annual contributions to such a bona fide plan, trust, program, or fund, for which the employer irrevocably escrows moneys at least quarterly based on the employer's expected annual contribution.

SECTION 2186v. 103.49 (1) (bg) of the statutes is amended to read:

103.49 (1) (bg) "Insufficient wage data" means less than 500 hours of work performed in a particular trade or occupation on projects that are similar to a proposed project of public works that is subject to this section.

SECTION 2186x. 103.49 (1) (bj) of the statutes is created to read:

103.49 (1) (bj) "Minor service and maintenance work" means a project of public works that is limited to minor crack filling, chip or slurry sealing, or other minor pavement patching, not including overlays, that has a projected life span of no longer than 5 years cleaning of drainage or sewer ditches or structures; or any other limited, minor work on public facilities or equipment that is routinely performed to prevent breakdown or deterioration.

SECTION 2187. 103.49 (1) (bm) of the statutes is repealed.

SECTION 2187f. 103.49 (1) (d) 1. of the statutes is amended to read:

103.49 (1) (d) 1. Except as provided in subd. 2., "prevailing wage rate" for any trade or occupation engaged in the erection, construction, remodeling, repairing ~~or~~, demolition, or improvement of any project of public works in any area means the hourly basic rate of pay, plus the hourly contribution for health insurance benefits, vacation benefits, pension benefits, and any other bona fide economic benefit, paid directly or indirectly for a

majority of the hours worked in the trade or occupation on projects in the area.

SECTION 2187h. 103.49 (1) (d) 2. of the statutes is amended to read:

103.49 **(1)** (d) 2. If there is no rate at which a majority of the hours worked in the trade or occupation on projects in the area is paid, "prevailing wage rate" for any trade or occupation engaged in the erection, construction, remodeling, repairing ~~or~~, demolition, or improvement of any project of public works in any area means the average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution, weighted by the number of hours worked, for health insurance benefits, vacation benefits, pension benefits, and any other bona fide economic benefit, paid directly or indirectly for all hours worked at the hourly basic rate of pay of the highest–paid 51% of hours worked in that trade or occupation on projects in that area.

SECTION 2187j. 103.49 (1) (dm) of the statutes is created to read:

103.49 **(1)** (dm) "Project of public works" means a project involving the erection, construction, repair, remodeling, demolition, or improvement, including any alteration, painting, decorating, or grading, of a public facility, including land, a building, or other infrastructure.

SECTION 2188. 103.49 (1) (e) of the statutes is repealed.

SECTION 2188e. 103.49 (1) (f) of the statutes is amended to read:

103.49 **(1)** (f) "State agency" means any office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts. "State agency" also includes a state public body and corporate created by constitution, statute, rule, or order, including specifically the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, and the Wisconsin Aerospace Authority.

SECTION 2188f. 103.49 (1) (fm) of the statutes is created to read:

103.49 **(1)** (fm) "Supply and installation contract" means a contract under which the material is installed by the supplier, the material is installed by means of simple fasteners or connectors such as screws or nuts and bolts and no other work is performed on the site of the project of public works, and the total labor cost to install the material does not exceed 20 percent of the total cost of the contract.

SECTION 2188g. 103.49 (1m) of the statutes is created to read:

103.49 **(1m)** APPLICABILITY. Subject to sub. (3g), this section applies to any project of public works erected, constructed, repaired, remodeled, demolished, or improved for the state or a state agency, other than a highway, street, or bridge construction or maintenance project, including all of the following:

(a) A project erected, constructed, repaired, remodeled, demolished, or improved by one state agency for another state agency under any contract or under any statute specifically authorizing cooperation between state agencies.

(b) A project in which the completed facility is leased, purchased, lease purchased, or otherwise acquired by, or dedicated to, the state in lieu of the state or a state agency contracting for the erection, construction, repair, remodeling, demolition, or improvement of the facility.

(c) A "sanitary sewer" or water main project in which the completed sanitary sewer or water main is acquired by, or dedicated to, the state for ownership or maintenance by the state.

SECTION 2188h. 103.49 (2) of the statutes is amended to read:

103.49 **(2)** PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract ~~hereafter~~ made for the erection, construction, remodeling, repairing, ~~or~~ demolition, or improvement of any project of public works~~, except contracts for the construction or maintenance of public highways, streets, and bridges,~~ to which the state or any state agency is a party shall contain a stipulation that no person performing the work described in sub. (2m) may be permitted to work a greater number of hours per day or per week than the prevailing hours of labor, except that any such person may be permitted or required to work more than such prevailing hours of labor per day and per week if he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly basic rate of pay; nor may he or she be paid less than the prevailing wage rate determined under sub. (3) in the same or most similar trade or occupation in the area ~~wherein such~~ in which the project of public works is situated. A reference to the prevailing wage rates determined under sub. (3) and the prevailing hours of labor shall be published in the notice issued for the purpose of securing bids for the project. If any contract or subcontract for a project of public works that is subject to this section is entered into, the prevailing wage rates determined under sub. (3) and the prevailing hours of labor shall be physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department, the department shall prescribe by rule the method of notifying the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force.

SECTION 2188k. 103.49 (2m) (a) 1. of the statutes is amended to read:

103.49 (**2m**) (a) 1. All laborers, workers, mechanics, and truck drivers employed on the site of a project of public works that is subject to this section.

SECTION 2188m. 103.49 (2m) (a) 2. of the statutes is amended to read:

103.49 (**2m**) (a) 2. All laborers, workers, mechanics, and truck drivers employed in the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of a project of public works that is subject to this section or from a facility dedicated exclusively, or nearly so, to a project of public works that is subject to this section by a contractor, subcontractor, agent, or other person performing any work on the site of the project.

SECTION 2188p. 103.49 (2m) (b) 1. of the statutes is amended to read:

103.49 (**2m**) (b) 1. The laborer, worker, mechanic, or truck driver is employed to go to the source of mineral aggregate such as sand, gravel, or stone that is to be immediately incorporated into the work, and not stockpiled or further transported by truck, pick up that mineral aggregate, and deliver that mineral aggregate to the site of a project of public works that is subject to this section by depositing the material substantially in place, directly or through spreaders from the transporting vehicle.

SECTION 2188r. 103.49 (2m) (b) 2. of the statutes is amended to read:

103.49 (**2m**) (b) 2. The laborer, worker, mechanic, or truck driver is employed to go to the site of a project that is subject to this section, pick up excavated material or spoil from the site of the project of public works and transport that excavated material or spoil away from the site of the project.

SECTION 2188v. 103.49 (3) (am) of the statutes is amended to read:

103.49 (**3**) (am) The department shall, by January 1 of each year, compile the prevailing wage rates for each trade or occupation in each area. The compilation shall, in addition to the current prevailing wage rates, include future prevailing wage rates when those prevailing wage rates can be determined for any trade or occupation in any area and shall specify the effective date of those future prevailing wage rates. If a ~~construction~~ project of public works extends into more than one area there shall be but one standard of prevailing wage rates for the entire project.

SECTION 2189. 103.49 (3) (ar) of the statutes is amended to read:

103.49 (**3**) (ar) In determining prevailing wage rates under par. (a) or (am), the department may not use data from projects that are subject to this section, s. 66.0903, 66.0904, 103.50, or 229.8275 or 40 USC ~~276a~~ 3142 unless the department determines that there is insufficient wage data in the area to determine those prevailing wage rates, in which case the department may use data from projects that are subject to this section, s. 66.0903, 66.0904, 103.50, or 229.8275 or 40 USC ~~276a~~ 3142.

SECTION 2189v. 103.49 (3) (c) of the statutes is amended to read:

103.49 (**3**) (c) In addition to the recalculation under par. (b), the state agency that requested the determination under this subsection may request a review of any portion of a determination within 30 days after the date of issuance of the determination if the state agency submits evidence with the request showing that the prevailing wage rate for any given trade or occupation included in the determination does not represent the prevailing wage rate for that trade or occupation in the city, village, or town in which the proposed project of public works is located. That evidence shall include wage rate information for the contested trade or occupation on at least 3 similar projects located in the city, village, or town where the proposed project of public works is located on which some work has been performed during the current survey period and which were considered by the department in issuing its most recent compilation under par. (am). The department shall affirm or modify the determination within 15 days after the date on which the department receives the request for review.

SECTION 2190d. 103.49 (3g) of the statutes is renumbered 103.49 (3g) (intro.) and amended to read:

103.49 (**3g**) NONAPPLICABILITY. (intro.) This section does not apply to any ~~single–trade public works project~~ of the following:

(a) A project of public works for which the estimated project cost of completion is less than ~~$30,000 or an amount determined by the department under s. 66.0903 (5) or to any multiple–trade public works project for which the estimated project cost of completion is less than $150,000 or an amount determined by the department under s. 66.0903 (5)~~ $25,000.

SECTION 2190f. 103.49 (3g) (b) of the statutes is created to read:

103.49 (**3g**) (b) A project of public works in which the labor for the project is provided by unpaid volunteers.

SECTION 2190j. 103.49 (3g) (c) of the statutes is created to read:

103.49 (**3g**) (c) Minor service or maintenance work, warranty work, or work under a supply and installation contract.

SECTION 2190n. 103.49 (4r) (b) of the statutes is amended to read:

103.49 (**4r**) (b) Upon completion of a project of public works and before receiving final payment for his or her work on the project, each agent or subcontractor shall furnish the contractor with an affidavit stating that the agent or subcontractor has complied fully with the requirements of this section. A contractor may not authorize final payment until the affidavit is filed in proper form and order.

SECTION 2190p. 103.49 (4r) (c) of the statutes is amended to read:

103.49 (**4r**) (c) Upon completion of a project of public works and before receiving final payment for his or her work on the project, each contractor shall file with the state agency authorizing the work an affidavit stating that the contractor has complied fully with the requirements of this section and that the contractor has received an affidavit under par. (b) from each of the contractor's agents and subcontractors. A state agency may not authorize a final payment until the affidavit is filed in proper form and order. If a state agency authorizes a final payment before an affidavit is filed in proper form and order or if the department determines, based on the greater weight of the credible evidence, that any person performing the work specified in sub. (2m) has been or may have been paid less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor and requests that the state agency withhold all or part of the final payment, but the state agency fails to do so, the state agency is liable for all back wages payable up to the amount of the final payment.

SECTION 2191d. 103.49 (5) (a) of the statutes is amended to read:

103.49 (**5**) (a) Each contractor, subcontractor, or contractor's or subcontractor's agent performing work on a project of public works that is subject to this section shall keep full and accurate records clearly indicating the name and trade or occupation of every person performing the work described in sub. (2m) and an accurate record of the number of hours worked by each of those persons and the actual wages paid for the hours worked.

SECTION 2191f. 103.49 (5) (am) of the statutes is created to read:

103.49 (**5**) (am) 1. Except as provided in this subdivision, by no later than the end of the first week of a month following a month in which a contractor, subcontractor, or contractor's or subcontractor's agent performs work on a project of public works that is subject to this section, the contractor, subcontractor, or agent shall submit to the department in an electronic format a certified record of the information specified in par. (a) for that preceding month. This requirement does not apply to a contractor, subcontractor, or agent if all persons employed by the contractor, subcontractor, or agent who are performing the work described in sub. (2m) are covered under a collective bargaining agreement and the wage rates for those persons under the collective bargaining agreement are not less than the prevailing wage rate. In that case, the contractor, subcontractor, or agent shall submit to the department in an electronic format a copy of all collective bargaining agreements that are pertinent to the project of public works by no later than the end of the first week of the first month in which the contractor, subcontractor, or agent performs work on the project of public works.

2. The department shall post on its Internet site all certified records and collective bargaining agreements submitted to the department under subd. 1., except that the department may not post on that site the name of or any other personally identifiable information relating to any employee of a contractor, subcontractor, or agent that submits information to the department under subd. 1. In this subdivision, "personally identifiable information" does not include an employee's trade or occupation, his or her hours of work, or the wages paid for those hours worked.

SECTION 2191h. 103.49 (5) (b) of the statutes is amended to read:

103.49 (**5**) (b) It shall be the duty of the department to enforce this section. To this end it may demand and examine, and every contractor, subcontractor, and contractor's and subcontractor's agent shall keep, and furnish upon request by the department, copies of payrolls and other records and information relating to the wages paid to persons performing the work described in sub. (2m) for work to which this section applies. The department may inspect records in the manner provided in this chapter. Every contractor, subcontractor, or agent performing work on a project of public works that is subject to this section is subject to the requirements of this chapter relating to the examination of records. Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section.

SECTION 2192. 103.49 (5) (c) of the statutes is amended to read:

103.49 (**5**) (c) If requested by any person, the department shall inspect the payroll records of any contractor, subcontractor, or agent performing work on a project of public works that is subject to this section to ensure compliance with this section. ~~If~~ In the case of a request made by a person performing the work specified in sub. (2m), if the department finds that the contractor, subcontractor, or agent subject to the inspection is ~~found to be~~ in compliance and ~~if the person making the request is a person performing the work specified in sub. (2m)~~ that the request is frivolous, the department shall charge the person making the request the actual cost of the inspection. ~~If~~ In the case of a request made by a person not performing the work specified in sub. (2m), if the department finds that the contractor, subcontractor, or agent subject to the inspection is ~~found to be~~ in compliance and ~~if the person making the request is not a person performing the work specified in sub. (2m)~~ that the request is frivolous, the department shall charge the person making the request $250 or the actual cost of the inspection, whichever is greater. In order to find that a request is frivolous, the department must find that the person making the request made the request in bad faith, solely for the purpose of harassing or maliciously injuring the contractor, subcontractor, or agent subject to the inspection, or that

the person making the request knew, or should have known, that there was no reasonable basis for believing that a violation of this section had been committed.

SECTION 2192e. 103.49 (6m) (a) of the statutes is renumbered 103.49 (6m) (am).

SECTION 2192f. 103.49 (6m) (ag) of the statutes is created to read:

103.49 **(6m)** (ag) 1. Any contractor, subcontractor, or contractor's or subcontractor's agent who fails to pay the prevailing wage rate determined by the department under sub. (3) or who pays less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor is liable to any affected employee in the amount of his or her unpaid wages or his or her unpaid overtime compensation and in an additional amount as liquidated damages as provided in subd. 2., 3., or 4., whichever is applicable.

2. If the department determines upon inspection under sub. (5) (b) or (c) that a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay the prevailing wage rate determined by the department under sub. (3) or has paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor, the department shall order the contractor to pay to any affected employee the amount of his or her unpaid wages or his or her unpaid overtime compensation and an additional amount equal to 100 percent of the amount of those unpaid wages or that unpaid overtime compensation as liquidated damages within a period specified by the department in the order.

3. In addition to or in lieu of recovering the liability specified in subd. 1. as provided in subd. 2., any employee for and in behalf of that employee and other employees similarly situated may commence an action to recover that liability in any court of competent jurisdiction. In an action that is commenced before the end of any period specified by the department under subd. 2., if the court finds that a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay the prevailing wage rate determined by the department under sub. (3) or has paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor, the court shall order the contractor, subcontractor, or agent to pay to any affected employee the amount of his or her unpaid wages or his or her unpaid overtime compensation and an additional amount equal to 100 percent of the amount of those unpaid wages or that unpaid overtime compensation as liquidated damages.

4. In an action that is commenced after the end of any period specified by the department under subd. 2., if the court finds that a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay the prevailing wage rate determined by the department under sub. (3) or has paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor, the court shall order the contractor, subcontractor, or agent to pay to any affected employee the amount of his or her unpaid wages or his or her unpaid overtime compensation and an additional amount equal to 200 percent of the amount of those unpaid wages or that unpaid overtime compensation as liquidated damages.

5. No employee may be a party plaintiff to an action under subd. 3. or 4. unless the employee consents in writing to become a party and the consent is filed in the court in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow reasonable attorney fees and costs to be paid by the defendant.

SECTION 2192p. 103.49 (6m) (b) of the statutes is amended to read:

103.49 **(6m)** (b) Whoever induces any person who seeks to be or is employed on any project of public works that is subject to this section to give up, waive, or return any part of the wages to which the person is entitled under the contract governing the project, or who reduces the hourly basic rate of pay normally paid to a person for work on a project that is not subject to this section during a week in which the person works both on a project of public works that is subject to this section and on a project that is not subject to this section, by threat not to employ, by threat of dismissal from employment, or by any other means is guilty of an offense under s. 946.15 (1).

SECTION 2192r. 103.49 (6m) (c) of the statutes is amended to read:

103.49 **(6m)** (c) Any person employed on a project of public works that is subject to this section who knowingly permits a contractor, subcontractor, or contractor's or subcontractor's agent to pay him or her less than the prevailing wage rate set forth in the contract governing the project, who gives up, waives, or returns any part of the compensation to which he or she is entitled under the contract, or who gives up, waives, or returns any part of the compensation to which he or she is normally entitled for work on a project that is not subject to this section during a week in which the person works both on a project of public works that is subject to this section and on a project that is not subject to this section, is guilty of an offense under s. 946.15 (2).

SECTION 2193. 103.49 (6m) (d) of the statutes is amended to read:

103.49 **(6m)** (d) Whoever induces any person who seeks to be or is employed on any project of public works that is subject to this section to permit any part of the wages to which the person is entitled under the contract governing the project to be deducted from the person's pay is guilty of an offense under s. 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC ~~276c~~ 3142.

SECTION 2194. 103.49 (6m) (e) of the statutes is amended to read:

103.49 (**6m**) (e) Any person employed on a project of public works that is subject to this section who knowingly permits any part of the wages to which he or she is entitled under the contract governing the project to be deducted from his or her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC ~~276c~~ 3142.

SECTION 2194g. 103.49 (6m) (f) of the statutes is amended to read:

103.49 (**6m**) (f) Paragraph ~~(a)~~ (am) does not apply to any person who fails to provide any information to the department to assist the department in determining prevailing wage rates under sub. (3) (a) or (am).

SECTION 2194j. 103.49 (7) (d) of the statutes is amended to read:

103.49 (**7**) (d) Any person submitting a bid on a project of public works that is subject to this section shall, on the date the person submits the bid, identify any construction business in which the person, or a shareholder, officer, or partner of the person, if the person is a business, owns, or has owned at least a 25% interest on the date the person submits the bid or at any other time within 3 years preceding the date the person submits the bid, if the business has been found to have failed to pay the prevailing wage rate determined under sub. (3) or to have paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor.

SECTION 2196. 103.50 (4m) of the statutes is amended to read:

103.50 (**4m**) WAGE RATE DATA. In determining prevailing wage rates for projects that are subject to this section, the department shall use data from projects that are subject to this section, s. 66.0903, 66.0904, or 103.49 or 40 USC ~~276a~~ 3142.

SECTION 2197. 103.50 (7) (d) of the statutes is amended to read:

103.50 (**7**) (d) Whoever induces any person who seeks to be or is employed on any project that is subject to this section to permit any part of the wages to which the person is entitled under the contract governing the project to be deducted from the person's pay is guilty of an offense under s. 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC ~~276c~~ 3142.

SECTION 2198. 103.50 (7) (e) of the statutes is amended to read:

103.50 (**7**) (e) Any person employed on a project that is subject to this section who knowingly permits any part of the wages to which he or she is entitled under the contract governing the project to be deducted from his or her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC ~~276c~~ 3142.

SECTION 2199. 103.503 (title) of the statutes is amended to read:

103.503 (title) **Substance abuse prevention on public works and publicly funded projects.**

SECTION 2200. 103.503 (1) (a) of the statutes is amended to read:

103.503 (**1**) (a) "Accident" means an incident caused, contributed to, or otherwise involving an employee that resulted or could have resulted in death, personal injury, or property damage and that occurred while the employee was performing the work described in s. 66.0903 (4), 66.0904 (3), or 103.49 (2m) on a project.

SECTION 2201. 103.503 (1) (c) of the statutes is amended to read:

103.503 (**1**) (c) "Contracting agency" means a local governmental unit, as defined in s. 66.0903 (1) (d), ~~or~~ a state agency, as defined in s. 103.49 (1) (f), or an owner or developer under s. 66.0904 that has contracted for the performance of work on a project.

SECTION 2202. 103.503 (1) (e) of the statutes is amended to read:

103.503 (**1**) (e) "Employee" means a laborer, worker, mechanic, or truck driver who performs the work described in s. 66.0903 (4), 66.0904 (3), or 103.49 (2m) on a project.

SECTION 2203. 103.503 (1) (g) of the statutes is amended to read:

103.503 (**1**) (g) "Project" mean a project of public works that is subject to s. 66.0903 or 103.49 or a publicly funded private construction project that is subject to s. 66.0904.

SECTION 2204. 103.503 (2) of the statutes is amended to read:

103.503 (**2**) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess, attempt to possess, distribute, deliver, or be under the influence of a drug, or use or be under the influence of alcohol, while performing the work described in s. 66.0903 (4), 66.0904 (3), or 103.49 (2m) on a project. An employee is considered to be under the influence of alcohol for purposes of this subsection if he or she has an alcohol concentration that is equal to or greater than the amount specified in s. 885.235 (1g) (d).

SECTION 2205. 103.503 (3) (a) 2. of the statutes is amended to read:

103.503 (**3**) (a) 2. A requirement that employees performing the work described in s. 66.0903 (4), 66.0904 (3), or 103.49 (2m) on a project submit to random, reasonable suspicion, and post–accident drug and alcohol testing and to drug and alcohol testing before commencing work on a project, except that testing of an employee before commencing work on a project is not required if the employee has been participating in a random testing

program during the 90 days preceding the date on which the employee commenced work on the project.

SECTION 2206d. 103.805 (1) of the statutes is amended to read:

103.805 **(1)** The department or a permit officer shall ~~fix and collect a reasonable fee based on the cost of issuance of~~ collect a fee in the amount of $10 for issuing permits under ss. 103.25 and 103.71 and certificates of age under s. 103.75. ~~The department may authorize the retention of the fees by the~~ A person designated to issue permits and certificates of age ~~as compensation for the person's services if the person~~ who is not on the payroll of the division administering this chapter may retain $2.50 of that fee as compensation for the person's services and shall forward $7.50 of that fee to the department, which shall deposit that amount forwarded in the general fund and credit $5 of that amount forwarded to the appropriation account under s. 20.445 (1) (gk). A person designated to issue permits and certificates of age who is on the payroll of the division administering this chapter shall forward that fee to the department, which shall deposit that fee in the general fund and credit $5 of that fee to the appropriation account under s. 20.445 (1) (gk). The permit officer shall account for all fees collected as the department prescribes.

SECTION 2207. 104.001 (3) (am) of the statutes is created to read:

104.001 **(3)** (am) The requirement that employees employed on a publicly funded private construction project for which a city, village, town, or county provides direct financial assistance, as defined in s. 66.0904 (1) (c), be paid at the prevailing wage rate, as defined in s. 66.0904 (1) (h), as required under s. 66.0904.

SECTION 2207n. 106.04 of the statutes is created to read:

106.04 Employment of apprentices on state public works projects. **(1)** DEFINITIONS. In this section:

(b) "Employer" means a contractor, subcontractor, or agent of a contractor or subcontractor that employs 5 or more employees in trades that are apprenticeable under this subchapter.

(d) "Project" means a project of public works that is subject to s. 103.49 or 103.50 in which work is performed by employees employed in trades that are apprenticeable under this subchapter.

(2) APPRENTICESHIP REPORTS. (a) By no later than 15 days after the end of a month in which an employer performs work on a project, the employer shall submit to the department in an electronic format a report of the daily number of employees employed by the employer on the project in trades that are apprenticeable under this subchapter, the daily number of apprentices employed on the project, the race, sex, and average age of those apprentices, and the daily number of hours worked by those apprentices. The department shall post on its Internet site a running summary of those reports summarizing for each month the total number of employees employed on projects in this state in trades that are apprenticeable under this subchapter, the total number of apprentices employed on those projects, the race, sex, and average age of those apprentices, and the total number of hours worked by those apprentices.

(b) The department shall grant an employer a total grace period of not more than 10 days in each calendar year for submitting the reports under par. (a). All projects on which an employer performs work during a calendar year, whether as a contractor, subcontractor, or agent of a contractor or subcontractor, are subject to a single grace period under this paragraph. If an employer exceeds that grace period, the employer shall forfeit, for each project on which the employer performs work during the calendar year, $1,000 for each day by which the employer exceeds the grace period.

(3) WAIVER. If the department grants an exception or modification to any requirement in any contract for the performance of work on a project relating to the employment and training of apprentices, the department shall post that information on its Internet site, together with a detailed explanation of why the exception or modification was granted.

(4) DEBARMENT. (a) Except as provided under pars. (b) and (c), the department shall distribute to all state agencies a list of all persons whom the department has found to have exceeded the grace period under sub. (2) (b) at any time in the preceding 3 years. The department shall include with any name the address of the person and shall specify when the person exceeded the grace period under sub. (2) (b). A state agency may not award any contract to the person unless otherwise recommended by the department or unless 3 years have elapsed from the date on which the department issued its findings or date of final determination by a court of competent jurisdiction, whichever is later.

(b) The department may not include in a notification under par. (a) the name of any person on the basis of having let work to a person whom the department has found to have exceeded the grace period under sub. (2) (b).

(c) This subsection does not apply to any contractor, subcontractor, or agent who in good faith on no more than 2 occasions in the same calendar year commits a minor violation of sub. (2) (b), as determined on a case–by–case basis through administrative hearings with all rights to due process afforded to all parties or who has not exhausted or waived all appeals.

(d) Any person submitting a bid on a project that is subject to this section shall, on the date on which the person submits the bid, identify any construction business in which the person, or a shareholder, officer, or partner of the person, if the person is a business, owns, or has owned at least a 25 percent interest on the date on which the person submits the bid or at any other time within 3 years preceding the date on which the person submits the bid,