



solid waste treatment facilities; creating a council on recycling and a council on used oil; littering; granting rule-making authority; providing a penalty; and making appropriations. **Vetoed in Part**

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

**SECTION 1. Legislative findings and intent.** (1) The legislature finds that the implementation of pending federal regulations under subtitle D of the resource conservation and recovery act, P.L. 94-580, as amended, 42 USC 6901 to 6991i, will reduce the available landfill capacity in the state for the disposal of municipal solid waste. The legislature further finds that this reduced capacity, when combined with the present trend of increasing amounts of municipal solid waste being placed in landfills, will lead to a shortage in landfill capacity that, if not addressed, will jeopardize the public health and welfare and the environment of this state.

(2) The legislature finds that the improper burning of solid waste has the potential to create hazards to public health and welfare and the environment through the emission of toxic air emissions and the production of ash contaminated by toxic substances.

(2m) The legislature finds that the burning of solid waste with energy recovery as a substitute for the burning of nonrenewable fuels, such as coal, to generate steam or electricity is in the public interest and should be encouraged, if done in a state-approved program that protects the public health and welfare and the environment.

(3) The legislature intends by this act to establish programs and regulations that reduce the amount of municipal solid waste disposed of in landfills and burned without energy recovery in this state and thus protect the public health and welfare and the environment.

~~SECTION 2. 14.065 (4m) of the statutes is created to read:~~

**Vetoed in Part**

~~14.065 (4m) The governor may not submit a proposal under sub. (3) relating to recycling or energy recovery involving materials identified under s. 159.07 (1) to (5) that are separated for recycling from post-consumer waste, as defined in s. 159.01 (7), except a proposal to use oil overcharge funds for grants under s. 159.25. The joint committee on finance may not approve a proposal under sub. (3) relating to recycling or energy recovery involving materials identified under s. 159.07 (1) to (5) that are separated for recycling from postconsumer waste, as defined in s. 159.01 (7), except a proposal to use oil overcharge funds for grants under s. 159.25.~~

**SECTION 2e.** 15.09 (1) of the statutes is renumbered 15.09 (1) (a) and amended to read:

15.09 (1) (a) Unless otherwise provided by law, the governor shall appoint the members of councils for terms prescribed by law. Fixed Except as provided in par. (b), fixed terms shall expire on July 1 and shall, if the term is for an even number of years, expire in an odd-numbered year.

**SECTION 2g.** 15.09 (1) (b) of the statutes is created to read:

15.09 (1) (b) The terms of the members of the council on recycling shall expire as specified under s. 15.347 (17) (c).

**SECTION 2j.** 15.347 (17) of the statutes is created to read:

15.347 (17) **COUNCIL ON RECYCLING.** (a) *Creation and membership.* There is created a council on recycling, attached to the department of natural resources under s. 15.03, consisting of:

1. One member who is a representative to the assembly and who is designated in the same manner that members of the standing committees of the assembly are appointed. **Vetoed in Part**

2. One member who satisfies par. (b) and who is designated in the same manner that members of the standing committees of the assembly are appointed.

3. One member who is a senator and who is designated in the same manner that members of the standing committees of the senate are appointed.

4. One member who satisfies par. (b) and who is designated in the same manner that members of the standing committees of the senate are appointed.

5. Three members selected by the governor, at least 2 of whom satisfy par. (b).

(b) *Public members.* The members of the council on recycling designated under par. (a) 2 and 4 and at least 2 of the members selected under par. (a) 5 may not be employees of the state or federal government.

(c) *Terms.* Each member of the council on recycling designated under par. (a) 1 to 4 shall serve a 2-year term expiring on the date specified under s. 13.02 (1) or until a successor is appointed. Each member of the council on recycling selected under par. (a) 5 shall serve a 4-year term expiring on the date that the next term of governor commences under s. 8.25 (4) (b) 2 or until a successor is appointed. **Vetoed in Part**

~~SECTION 2m. 15.347 (18) of the statutes is created to read:~~

~~15.347 (18) **COUNCIL ON USED OIL.** There is created a council on used oil in the department of natural resources consisting of the secretary of natural resources or the secretary's designee, the secretary of development or the secretary's designee and a representative of the department of administration, appointed by the secretary having responsibility for the energy functions of the department, and 3 representatives of local governments in this state and 6 representatives of the oil or used oil industry, appointed for 2-year terms. **Vetoed in Part**~~

**SECTION 2t.** 16.004 (10) of the statutes is created to read:

16.004 (10) **RECYCLING PROPOSAL.** The secretary shall develop a proposal for funding recycling in this

state. That proposal shall distribute the burden of funding so that the portion paid by business, industry and citizens reflects their contribution to the waste stream. The secretary shall submit its proposal to the joint committee on finance on or before January 31, 1991.

SECTION 3b. 16.15 (1) (ab), (ae), (ah), (aj), (ar) and (f) of the statutes are created to read:

16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2).

(ae) "Cost of disposing of processed material" has the meaning given in s. 159.11 (2m) (a) 1.

(ah) "Cost of selling processed material" has the meaning given in s. 159.11 (2m) (a) 2.

(aj) "Major appliance" has the meaning given in s. 159.01 (3).

(ar) "Processed material" has the meaning given in s. 159.11 (2m) (a) 3.

(f) "Yard waste" has the meaning given in s. 159.01 (17).

SECTION 3m. 16.15 (2) of the statutes is amended to read:

16.15 (2) PROGRAM ESTABLISHMENT. The department shall establish a resource recovery and recycling program to promote the reduction of solid waste by agencies and authorities, the separation, recovery and disposition of recyclable materials and the procurement of recycled materials and recovered materials. The department shall require each agency and authority to participate in the resource recovery and recycling program. The department shall also investigate opportunities for the inclusion of local governmental units in the resource recovery and recycling program and shall permit participation of local governmental units in the program when feasible.

SECTION 4. 16.15 (2m) of the statutes is repealed.

SECTION 5b. 16.15 (3) of the statutes is created to read:

16.15 (3) SOURCE SEPARATION. (a) *Requirements.* Except as provided in par. (b), the department shall require each agency and authority to do all of the following:

1. Separate for recycling all lead acid batteries, waste oil and major appliances that are generated as solid waste by the agency or authority beginning on January 1, 1991.

2. Except as provided in this subdivision, separate for recycling at least 50% of yard waste that is generated by the agency or authority beginning on January 1, 1992, and all yard waste that is generated by the agency or authority beginning on January 1, 1993. An agency or authority may allow yard waste to be left where it falls or dispose of yard waste on the same property on which it is generated, in lieu of separation for recycling.

3. Separate for recycling at least 50% of each of the materials listed in s. 159.07 (3) or (4) that is generated as solid waste by the agency or authority beginning on January 1, 1993, and such greater amount of such

materials as the department determines is reasonably feasible beginning on January 1, 1995.

~~4. Separate for recycling the greatest amount that the department determines is reasonably feasible, but not less than 50%, of any material generated as solid waste by the agency or authority the disposal of which is prohibited by the department of natural resources by rule under s. 159.07 (5).~~

**Vetoed  
in Part**

(b) *Variance.* 1. The department of natural resources shall, at the request of an agency or authority, grant a variance to a requirement under par. (a) 3 or 4 for up to one year for a material that is generated by the agency or authority in one or more locations if the department of natural resources determines that the cost of selling processed material exceeds any of the following:

**Vetoed  
in Part**

a. Forty dollars per ton of processed material, as annually adjusted by the department of natural resources to reflect changes in price levels due to inflation since 1989.

b. The cost of disposing of processed material.

2. The department of natural resources may on its own initiative grant a variance to a requirement under par. (a) 3 or 4 for up to one year for a material that is generated by one or more state agencies or authorities in one or more locations if the department of natural resources determines that the cost of selling processed material exceeds the amount under subd. 1. a or b.

**Vetoed  
in Part**

3. The department of natural resources may grant a variance to a requirement under par. (a) for up to one year in the event of an unexpected emergency condition.

SECTION 5g. 16.15 (4) (a) 3. b and (b) of the statutes are amended to read:

16.15 (4) (a) 3. b. Agencies and authorities.

(b) By July 1 of each even-numbered year, each agency and authority and participating local governmental unit shall submit recommendations to the department regarding the operation of the resource recovery and recycling program under sub. (2).

SECTION 5n. 16.46 (8) of the statutes is created to read:

16.46 (8) The estimate of the department of revenue under s. 73.03 (36).

SECTION 5r. 16.70 (2) of the statutes is amended to read:

16.70 (2) "Authority" means a body created under ch. 231, 232 or 234.

~~SECTION 6. 16.70 (10m) of the statutes is created to read:~~

**Vetoed  
in Part**

~~16.70 (10m) "Postconsumer waste" has the meaning given in s. 159.01 (7).~~

~~SECTION 7. 16.70 (11) of the statutes is amended to read:~~

~~16.70 (11) "Recovered material" means a product which is recovered from solid postconsumer waste in a form identical to the original form for a use that is the same as or similar to the original use.~~

SECTION 8. 16.70 (11m) of the statutes is created to read:

**Vetoed in Part** 16.70 (11m) "Recyclable material" means material in postconsumer waste for which there exists a commercially demonstrated processing or manufacturing technology which uses the material as a raw material.

SECTION 9. 16.70 (12) of the statutes is amended to read:

**Vetoed in Part** 16.70 (12) "Recycled material" means a product which is manufactured from ~~solid postconsumer waste~~ or paper mill sludge.

SECTION 10. 16.70 (13) of the statutes is created to read:

16.70 (13) "Recycled or recovered content" means the proportion of an item, by weight or other measure, which is recycled material or recovered material.

SECTION 11. 16.72 (2) (e) of the statutes is renumbered 16.72 (2) (e) (intro.) and amended to read:

16.72 (2) (e) (intro.) The In writing the specifications under this subsection, the department and any other designated purchasing agent under s. 16.71 (1) shall write specifications incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. Each authority, in writing specifications for purchasing by the authority, shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. The specifications shall include requirements for the purchase of the following materials:

SECTION 12. 16.72 (2) (e) 1 to 7 of the statutes are created to read:

- 16.72 (2) (e) 1. Paper and paper products.
2. Plastic and plastic products.
3. Glass and glass products.
4. Motor oil and lubricants.
5. Construction materials, including insulating materials.
6. Furnishings, including rugs, carpets and furniture.
7. Highway equipment, including signs, signposts, reflectors, guardrails, lane dividers and barricades.

**Vetoed in Part** SECTION 13. 16.72 (2) (f) and ~~(g)~~ of the statutes are created to read:

16.72 (2) (f) In writing specifications under this subsection, the department, any other designated purchasing agent under s. 16.71 (1) and each authority shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state, consistent with the priorities established under s. 159.05 (12). All specifications under this subsection shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.

~~(g) The department, any other designated purchasing agent under s. 16.71 (1) any agency making purchases under s. 16.74 and any authority shall perform all printing and require all printing purchased by the department, agent, agency or authority to be performed utilizing soy-based ink.~~ **Vetoed in Part**

SECTION 14. 16.72 (6) and (7) of the statutes are created to read:

16.72 (6) The department shall maintain a clearinghouse of information regarding products made from recycled material and recovered material for purchase by governmental agencies and authorities. The clearinghouse shall include information concerning the availability, price and quality of products made from recycled materials and recovered materials. The clearinghouse shall also include information concerning vendors and other persons willing to purchase recyclable material from agencies, authorities and local governmental units ~~under ss. 16.75 (9) and 66.299 (4)~~. The department shall develop a mechanism to make this information available to all designated agents under s. 16.71 (1), agencies making purchases under s. 16.74 and authorities to assist them in complying with s. 16.75 (8) and (9) and to all local governmental purchasing agents to assist them in complying with s. 66.299 (3) and (4).

(7) Annually, by March 1, the department shall submit to the council on recycling a report regarding the department's resource recovery and recycling activities of the preceding year. The report shall include information concerning the level of compliance by the department and other agencies and authorities with all of the following and reasons for any failure to fully comply with all of the following:

(a) The requirements under s. 16.75 (8) (a) and (9) ~~(a)~~ that the department and other purchasing agents and authorities make purchasing selections using specifications prescribed under sub. (2) (e) and (f) and specifically that each agency and authority ensure that a minimum proportion of its aggregate paper purchases be recycled fiber. **Vetoed in Part**

(b) The requirement of s. 16.855 (10p) that specifications for each state construction project provide for the use of recovered materials and recycled materials to the extent that such use is technically and economically feasible.

(c) The requirement of s. 16.15 (3) that agencies and authorities separate for recycling the materials specified in that subsection.

SECTION 15. 16.73 (4) of the statutes is created to read:

16.73 (4) (a) When it is in the best interest of the state and consistent with competitive purchasing practices, the department may enter into agreements with purchasing agents of any other state or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing of materials, supplies, equipment, permanent

personal property, miscellaneous capital or contractual services. The state may purchase from any vendor selected as a result of such purchasing agreements. This paragraph does not apply to construction contracts that are subject to s. 16.855 or 66.29.

(b) The department may cooperate with purchasing agents and other interested parties of any other state or the federal government to develop uniform purchasing specifications under s. 16.72 (2) on a regional or national level to facilitate cooperative interstate purchasing transactions.

SECTION 16. 16.75 (1) (a) 1 of the statutes is amended to read:

16.75 (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment and contractual services, except as otherwise provided in par. (c) and subs. (4m), (2), (2g), (2m), (3m), (3s), (3t), (6) and (7), (8) and (9) and ss. 16.73 (4) (a), 16.754, 46.265, 50.05 (7) (f) and 44.48 159.15 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

SECTION 17. 16.75 (1m) (a) of the statutes is renumbered 16.75 (1m) and amended to read:

16.75 (1m) The department shall consider life cycle cost estimates in the award of any each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates, whenever such action is appropriate. Each authority shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates, whenever such action is appropriate. The terms, conditions and evaluation criteria to be applied shall be incorporated in the solicitation of bids or proposals. The life cycle cost formula may include, but is not limited to, the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance and disposition or resale.

SECTION 18. 16.75 (1m) (b) of the statutes is repealed.

SECTION 18c. 16.75 (3m) (b) of the statutes is amended to read:

16.75 (3m) (b) The department and any agency making purchases under s. 16.74 shall attempt to ensure that 5% of the total amount expended under this subchapter in each fiscal year is paid to minority businesses. Except as provided under par. (d) and sub. (7), the department may purchase materials, supplies, equipment and contractual services from any minority business submitting a qualified responsible competitive bid that is no more than 5% higher than the apparent low bid or competitive proposal that is no more than 5% higher than the most advantageous offer, unless the department is required under sub. (3s)

to award the order or contract to a sheltered workshop. In administering the preference for minority businesses established in this paragraph, the department and any agency making purchases under s. 16.74 shall maximize the use of minority businesses which are incorporated under ch. 180 or which have their principal place of business in this state.

SECTION 18g. 16.75 (3m) (d) of the statutes is created to read:

16.75 (3m) (d) In comparing a bid submitted by a minority business to a bid subject to sub. (8) (a), the department may award an order or contract to the minority business if the bid submitted by that business is no more than 5% higher than the bid subject to sub. (8) (b), after application of the calculation required under sub. (8) (b).

SECTION 18n. 16.75 (3s) of the statutes is renumbered 16.75 (3s) (a) and amended to read:

16.75 (3s) (a) If a sheltered workshop licensed by the department of industry, labor and human relations under s. 104.07 submits a qualified responsible competitive bid with respect to an order or contract that is no more than 2% higher than the lowest responsible bid, or a competitive proposal with respect to an order or contract that is no more than 2% higher than the most advantageous proposal, the department and any agency making purchases under s. 16.74 shall award the order or contract to that sheltered workshop. If more than one sheltered workshop submits such a bid or proposal, the department or other agency shall award the order or contract to the one submitting the lowest bid or proposal. This subsection does not apply to purchases of printing and stationery.

SECTION 18r. 16.75 (3s) (b) and (c) of the statutes are created to read:

16.75 (3s) (b) In comparing a bid submitted by a sheltered workshop to a bid subject to sub. (8) (b), the department shall award the order or contract to the sheltered workshop if the bid submitted by the workshop is no more than 2% higher than the bid subject to sub. (8) (b), after application of the calculation required under sub. (8) (b).

(c) This subsection does not apply to purchases of printing and stationery.

SECTION 19. 16.75 (8) and (9) of the statutes are created to read:

16.75 (8) (a) 1. The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74 and each authority shall, to the extent practicable, make purchasing selections using specifications developed under s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and recovered materials.

2. Each agency and authority shall ensure that the average recycled or recovered content of all paper purchased by the agency or authority, exclusive of tissue papers, measured as a proportion, by weight, of the

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**Vetoed in Part** fiber content of nontissue paper products purchased in a calendar year, is not less than the following:

- Vetoed in Part** a. By 1991, 10% of all purchased nontissue paper.
- b. By 1993, 25% of all purchased nontissue paper.
- c. By 1995, 40% of all purchased nontissue paper.

**Vetoed in Part** (b) In reviewing bids for the purchase of a product for which the recycled or recovered content reasonably can be determined, the department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74 and any authority shall, for the purpose of calculating the lowest bid, reduce each bidder's actual bid price by 1% for every 10% of recycled or recovered content of the product offered by that bidder which is in excess of the minimum recycled or recovered content required under par. (a). A bidder who becomes the low bidder following such a calculation, and is awarded the contract, shall be paid his or her actual bid price.

**Vetoed in Part** (9) (a) The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74 and any authority shall, to the extent practicable, do all of the following:

~~1. Make purchasing selections using specifications prepared under s. 16.72 (2) (f).~~

~~2. Except as provided in par. (b), negotiate agreements to purchase products made from recyclable materials from vendors who agree to purchase like materials separated from solid waste generated by the state for reuse or use as a raw material in manufacturing.~~

~~(b) Paragraph (a) 2 does not apply if the department, purchasing agent, agency or authority has or had at any time in the year preceding the purchase, a contract with a scrap dealer or processor to take the like materials for reuse or recycling.~~

~~SECTION 19m. 19.85 (1) (k) of the statutes is created to read:~~

~~19.85 (1) (k) Deliberating and conferring by a local committee, as defined in s. 144.445 (3) (e), alone or with any person other than an applicant, as defined in s. 144.445 (3) (a), or the applicant's agent concerning negotiations under s. 144.445 (9) and arbitration under s. 144.445 (10).~~

SECTION 20. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		<u>1989-90</u>	<u>1990-91</u>
<b>20.115</b>	<b>Agriculture, trade and consumer protection, department of</b>		
(1)	FOOD SAFETY AND CONSUMER PROTECTION		
(u)	Recyclable and nonrecyclable products regulation	SEG A	-0- 150,400
(7)	AGRICULTURAL RESOURCE MANAGEMENT		
(e)	Chemical and container collection demonstration grants	GPR A	-0- 100,000
<b>20.143</b>	<b>Development, department of</b>		
(1)	ECONOMIC AND COMMUNITY DEVELOPMENT		
(q)	Recycling development program	SEG A	-0- 149,800
(r)	Recycling rebates, grants and loans--administration	SEG A	-0- 184,000
(s)	Wisconsin development fund; recycling loans, assistance	SEG A	-0- 2,250,000
(t)	Recycling rebate program--assistance	SEC C	-0- 3,000,000
(u)	Minority business recycling development; grants and loans	SEG A	-0- 1,000,000
<b>20.285</b>	<b>University of Wisconsin system</b>		
(1)	UNIVERSITY EDUCATION, RESEARCH AND PUBLIC SERVICE		
(tb)	Extension recycling education	SEG A	-0- 290,700

**Vetoed in Part**

**Vetoed in Part**

**Vetoed in Part**

<del>(fc)</del>	<del>Solid waste disposal alternatives--research and development</del>	<del>SEG A</del>	<del>-0-</del>	<del>667,500</del>	<del>Vetoed in Part</del>
<b>20.292</b>	<b>Vocational, technical and adult education, board of</b>				
(1)	VOCATIONAL, TECHNICAL AND ADULT EDUCATION				
(s)	Recycling programs	SEG A	-0-	\$20,000	Vetoed in Part
<b>20.370</b>	<b>Natural resources, department of</b>				
(2)	ENVIRONMENTAL STANDARDS				
(cb)	Air waste management--incinerator operator certification	GPR A	74,900	138,300	
(dc)	Solid waste management--dump closure administration	GPR A	-0-	82,000	
(hq)	Recycling; administration	SEG A	-0-	666,600	Vetoed in Part
(hr)	Council on recycling	SEG A	-0-	\$30,000	Vetoed in Part
(4)	LOCAL SUPPORT				
(ct)	Environmental aids--waste reduction and recycling demonstration grants	SEG C	-0-	1,000,000	
(cw)	Environmental aids--municipal and county recycling grants	SEG C	-0-	18,500,000	
(db)	Environmental aids--dump closure cost share	GPR C	-0-	2,000,000	
(iw)	Aids administration--recycling grants funds	SEG A	-0-	26,000	
(8)	ADMINISTRATIVE SERVICES				
(is)	Statewide recycling education	SEG C	-0-	1,000,000	
(iw)	Statewide recycling administration	SEG A	-0-	410,600	
<b>20.490</b>	<b>Wisconsin housing and economic development authority</b>				
(7)	RECYCLING LOAN GUARANTEES				
(q)	Recycling loan fund	SEG C	-0-	1,000,000	
<b>20.566</b>	<b>Revenue, department of</b>				
(1)	COLLECTION OF STATE TAXES				
(q)	Recycling fees administration	SEG A	-0-	1,000	
(3)	ADMINISTRATIVE SERVICES AND SPACE RENTAL				
(q)	Recycling fees support	SEG A	-0-	91,900	
<b>20.855</b>	<b>Miscellaneous appropriations</b>				
(2)	RECYCLING FUND				
(a)	Initial recycling fund payments	GPR A	-0-	30,628,500	

SECTION 21. 20.115 (1) (u) of the statutes is created to read:

**Vetoed in Part** 20.115 (1) (u) *Recyclable and nonrecyclable products regulation.* From the recycling fund, the amounts in the schedule for the implementation and enforcement of ss. 100.29, 100.295, ~~100.296~~ and 100.33 and to con-

~~due the study under 1989 Wisconsin Act (this act), section 83 (3m).~~ **Vetoed in Part**

SECTION 21e. 20.115 (7) (e) of the statutes is created to read:

20.115 (7) (e) *Chemical and container collection demonstration grants.* The amounts in the schedule for

chemical and container collection demonstration grants under s. 93.55. No money may be encumbered from this appropriation after June 30, 1991.

SECTION 21j. 20.143 (1) (ie) of the statutes is amended to read:

20.143 (1) (ie) *Wisconsin development fund, repayments.* All moneys received in repayment of grants or loans under s. 560.085 (4) (b), 1985 stats., and subch. ~~IV~~ V of ch. 560 ~~except s. 560.65~~, to be used for grants and loans under subch. ~~IV~~ V of ch. 560 ~~except s. 560.65~~.

SECTION 21k. 20.143 (1) (ig) of the statutes is created to read:

20.143 (1) (ig) *Recycling loans; repayments.* All moneys received in repayment of loans under s. 560.65 to be used for loans under s. 560.65.

SECTION 21m. 20.143 (1) (im) of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

20.143 (1) (im) *Minority business projects; repayments.* All moneys received in repayment of grants or loans under s. 560.83 to be used for grants and loans under ~~subch. VII of ch. 560~~ ss. 560.82 and 560.83.

SECTION 21p. 20.143 (1) (ip) of the statutes is created to read:

20.143 (1) (ip) *Minority business recycling development; repayments.* All moneys received in repayment of grants and loans under s. 560.835 to be used for grants and loans under s. 560.835.

SECTION 22. 20.143 (1) (q), (r) and (s) of the statutes are created to read:

20.143 (1) (q) *Recycling development program.* From the recycling fund, the amounts in the schedule for the implementation of s. 560.08 (2) (k) and (km).

(r) *Recycling rebates, grants and loans — administration.* From the recycling fund, the amounts in the schedule for the administration of recycling loans under s. 560.65, minority business recycling development grants and loans under s. 560.83 and recycling rebates under s. 560.12.

(s) *Wisconsin development fund; recycling loans, assistance.* From the recycling fund, the amounts in the schedule for recycling loans under s. 560.65.

SECTION 22g. 20.143 (1) (t) of the statutes is created to read:

20.143 (1) (t) *Recycling rebate program — assistance.* From the recycling fund, as a continuing appropriation, the amounts in the schedule for recycling rebates under s. 560.12.

SECTION 22k. 20.143 (1) (u) of the statutes is created to read:

20.143 (1) (u) *Minority business recycling development; grants and loans.* From the recycling fund, the amounts in the schedule for recycling development project grants and loans under s. 560.835.

SECTION 22L. 20.285 (1) (tb) of the statutes is created to read:

20.285 (1) (tb) *Extension recycling education.* From the recycling fund, the amounts in the schedule for university of Wisconsin-extension educational programs in recycling.

~~SECTION 22m. 20.285 (1) (tc) of the statutes is created to read:~~

~~20.285 (1) (tc) *Solid waste disposal alternatives — research and development.* From the recycling fund, the amounts in the schedule for research and development concerning alternatives to solid waste disposal under s. 36.25 (3m) (c).~~

SECTION 22n. 20.292 (1) (s) of the statutes is created to read:

20.292 (1) (s) *Recycling programs.* From the recycling fund, the amounts in the schedule for recycling programs under s. 38.04 (18).

SECTION 22nn. 20.370 (2) (cb) of the statutes is created to read:

20.370 (2) (cb) *Air waste management — incinerator operator certification.* The amounts in the schedule for the purpose of administering s. 144.31 (3).

SECTION 22p. 20.370 (2) (ch) of the statutes is created to read:

20.370 (2) (ch) *Air management — emission analysis.* All moneys received from fees collected under s. 144.382 (3) (c) for the purpose of reviewing and preparing analyses of emissions from certain medical waste incinerators.

SECTION 22q. 20.370 (2) (ci) of the statutes is created to read:

20.370 (2) (ci) *Air waste management — incinerator operator certification.* All moneys received from fees under s. 144.31 (3) for the purpose of administering s. 144.31 (3).

SECTION 22r. 20.370 (2) (dc) of the statutes is created to read:

20.370 (2) (dc) *Solid waste management — dump closure administration.* The amounts in the schedule for technical assistance and plan review for the closure of nonapproved solid waste disposal facilities, including contracts for those services.

SECTION 22t. 20.370 (2) (di) of the statutes is created to read:

20.370 (2) (di) *Solid waste management — operator certification.* All moneys received from fees under s. 144.435 (3) for the purpose of administering s. 144.435 (3).

SECTION 22u. 20.370 (2) (eh) of the statutes is created to read:

20.370 (2) (eh) *Solid waste management — source reduction review.* All moneys received from fees collected under s. 159.07 (8) (d) for the purpose of reviewing medical waste source reduction policies and assessments.

SECTION 23. 20.370 (2) (hq) of the statutes is created to read:

Vetoed  
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20.370 (2) (hq) *Recycling; administration*. From the recycling fund, the amounts in the schedule for the administration of subch. II of ch. 159, other than ss. 159.17, 159.21, 159.22, 159.23 and 159.25.

SECTION 23m. 20.370 (2) (hr) of the statutes is created to read:

20.370 (2) (hr) *Council on recycling*. From the recycling fund, the amounts in the schedule for the general program operations of the council on recycling under s. 159.22.

SECTION 24. 20.370 (3) (ma) of the statutes is amended to read:

20.370 (3) (ma) *General program operations — state funds*. From the general fund, the amounts in the schedule for regulatory and enforcement operations under chs. 30, 31, 144, 147, 159 and 162 and ss. 59.971, 59.974, 61.351, 61.354, 62.231, 62.234 and 87.30, for reimbursement of the conservation fund for expenses incurred for actions taken under s. 166.04 and for review of environmental impact requirements under ss. 1.11 and 23.40.

SECTION 25. 20.370 (4) (ce) of the statutes, as affected by 1989 Wisconsin Act 31, is repealed.

SECTION 26. 20.370 (4) (ct) of the statutes is created to read:

20.370 (4) (ct) *Environmental aids — waste reduction and recycling demonstration grants*. From the recycling fund, as a continuing appropriation, the amounts in the schedule for waste reduction and recycling demonstration grants under s. 159.25.

SECTION 27. 20.370 (4) (cw) of the statutes is created to read:

20.370 (4) (cw) *Environmental aids — municipal and county recycling grants*. From the recycling fund, as a continuing appropriation, the amounts in the schedule for municipal and county grants under s. 159.23 and 1989 Wisconsin Act ... (this act), section 85 (5).

SECTION 28d. 20.370 (4) (db) of the statutes is created to read:

20.370 (4) (db) *Environmental aids — dump closure cost share*. From the general fund, as a continuing appropriation, the amounts in the schedule for the state contribution to the costs of closing nonapproved solid waste disposal facilities owned by political subdivisions under s. 144.455.

SECTION 29. 20.370 (4) (iw) of the statutes is created to read:

20.370 (4) (iw) *Aids administration — recycling grants*. From the recycling fund, the amounts in the schedule for the administration of municipal and county grants under s. 159.23 and waste reduction and recycling demonstration grants under s. 159.25.

SECTION 30. 20.370 (8) (is) of the statutes is created to read:

20.370 (8) (is) *Statewide recycling education*. From the recycling fund, as a continuing appropriation, the amounts in the schedule for the statewide education program under s. 159.21.

SECTION 30g. 20.370 (8) (iw) of the statutes is created to read:

20.370 (8) (iw) *Statewide recycling administration*. From the recycling fund, the amounts in the schedule for administration of a statewide recycling program under ch. 159.

SECTION 30k. 20.490 (7) of the statutes is created to read:

20.490 (7) RECYCLING LOAN GUARANTEES. (q) *Recycling loan fund*. From the recycling fund, as a continuing appropriation, the amounts in the schedule to be transferred, within 3 days after the effective date of this paragraph ... [revisor inserts date], to the recycling loan fund under s. 234.68. No moneys may be encumbered under this paragraph after June 30, 1991.

SECTION 30kn. 20.566 (1) (q) of the statutes is created to read:

20.566 (1) (q) *Recycling fees administration*. From the recycling fund, the amounts in the schedule for the cost of administering recycling fees under subch. VII of ch. 77.

SECTION 30kp. 20.566 (3) (q) of the statutes is created to read:

20.566 (3) (q) *Recycling fees support*. From the recycling fund, the amounts in the schedule for support services relating to recycling fees under subch. VII of ch. 77.

SECTION 30m. 20.855 (2) of the statutes is created to read:

20.855 (2) RECYCLING FUND. (a) *Initial recycling fund payments*. The amounts in the schedule to be paid into the recycling fund. No moneys may be encumbered from the appropriation under this paragraph after June 30, 1991.

(b) *Recycling fund payments*. A sum sufficient to pay the amounts determined under s. 25.49 (4) into the recycling fund. No moneys may be encumbered under this paragraph before July 1, 1991.

SECTION 31. 23.50 (1) of the statutes, as affected by 1989 Wisconsin Act 79, is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable natural resources assessments and applicable natural resources restitution payments for violations of ss. 77.09, 134.60, 159.07, 159.08, 159.81, 167.10 (3) and 167.31 (2), subch. VI of ch. 77, this chapter and chs. 26 to 31 and 350, and any administrative rules promulgated thereunder and violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

SECTION 31m. 23.53 (1) of the statutes is amended to read:

23.53 (1) The citation created under this section shall, in all actions to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable natural resources assessments

and applicable natural resources restitution payments for violations of those statutes enumerated in s. 23.50 (1) and any administrative rules promulgated thereunder, be used by any law enforcement officer with authority to enforce those laws, except that the uniform traffic citation created under s. 345.11 may be used by a traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 in enforcing s. 159.81. In accordance with s. 345.11 (1m), the citation shall not be used for violations of ch. 350 relating to highway use. The citation may be used for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

SECTION 32. 23.65 (1) and (3) of the statutes are amended to read:

23.65 (1) When it appears to the district attorney that a violation of s. 134.60, ~~159.07, 159.08 or 159.81~~, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350, or any administrative rule promulgated pursuant thereto, has been committed the district attorney may proceed by complaint and summons.

(3) If a district attorney refuses or is unavailable to issue a complaint, a circuit judge, after conducting a hearing, may permit the filing of a complaint if he or she finds there is probable cause to believe that the person charged has committed a violation of ~~s. 159.07, 159.08 or 159.81~~, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350. The district attorney shall be informed of the hearing and may attend.

SECTION 33. 25.17 (1) (nm) of the statutes is created to read:

25.17 (1) (nm) Recycling fund (s. 25.49);

SECTION 33m. 25.46 (6r) of the statutes is created to read:

25.46 (6r) The solid waste capacity fees imposed under ss. 144.441 (7) and 144.4412 for environmental repair.

SECTION 34. 25.49 of the statutes is created to read:

**25.49 Recycling fund.** There is established a separate nonlapsible trust fund designated as the recycling fund, to consist of:

- (1) The fees imposed under subch. VII of ch. 77.
- (2) The fees imposed under s. 159.31.
- (3) The moneys appropriated under s. 20.855 (2) (a).
- (4) From the appropriation under s. 20.855 (2) (b), in each fiscal year, an amount equal to 0% of the amounts appropriated under ss. 20.115 (1) (u), 20.143 (1) (q), (r), (s), (t) and (u), 20.285 (1) (tb) ~~and (ts)~~, 20.292 (1) (s), 20.370 (2) (hq) and (hr), (4) (ct), (cw) and (iw) and (8) (is) and (iw) and 20.566 (1) (q) and (3) (q) in that fiscal year.

SECTION 34b. 27.015 (11) of the statutes is amended to read:

27.015 (11) (title) ENFORCE HIGHWAY LITTERING LAW. Such committee shall work out plans to enforce the ~~state law provision of s. 159.81 (2) (a) prohibiting dumping of tin cans and rubbish~~ the depositing of solid waste on or along highways.

SECTION 34d. 29.05 (1) and (8) (a) of the statutes, as affected by 1987 Wisconsin Act 332, are amended to read:

29.05 (1) WARRANTS, ARRESTS. The department and its wardens may execute and serve warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31, 346.19, ~~346.94 (6) and (6m)~~, 940.24, 941.20, ~~947.047~~, 948.60 and 948.61 in the same manner as any constable may serve and execute such process; and may arrest, with or without a warrant, any person detected in the actual violation, or whom such officer has probable cause to believe guilty of a violation of any of the laws cited in this subsection, whether such violation is punishable by criminal penalties or civil forfeiture and may take such person before any court in the county where the offense was committed and make proper complaint. For the purpose of enforcing any of the laws cited in this subsection, any such officer may stop and board any boat and stop any automobile, snowmobile or other vehicle, if the officer reasonably suspects there is a violation of such sections.

(8) (a) The department and its wardens shall seize and hold subject to the order of the court for the county in which the alleged offense was committed, any apparatus, appliance, vehicle or device, declared by this chapter to be a public nuisance, which they have probable cause to believe is being used in violation of this chapter, an administrative rule promulgated under this chapter or s. ~~159.81, 167.31, 346.94 (6) or (6m)~~, 940.24, 941.20, ~~947.047~~, 948.60 or 948.61. If it is proven that within 6 months previous to the seizure the apparatus, appliance, vehicle or device was used in violation of this chapter or an administrative rule promulgated under this chapter or s. ~~159.81, 167.31, 346.94 (6) or (6m)~~, 940.24, 941.20, ~~947.047~~, 948.60 or 948.61, it shall be confiscated if the court directs in its order for judgment.

SECTION 34f. 29.288 of the statutes is repealed.

SECTION 34h. 29.29 (3) (a) of the statutes is repealed.

SECTION 34j. 30.204 (5) of the statutes is amended to read:

30.204 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the department in conducting the lake acidification experiment are exempt from any prohibition, restriction, requirement, permit, license, approval, authorization, fee, notice, hearing, procedure or penalty specified under ss. 29.29 (3), 30.01 to 30.03, 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, 59.971, 87.30, 144.01 to 144.27, 144.43 to 144.79 ~~or~~, 144.96 to 144.99 or 159.81 or ch. 147 or specified in

Vetoed  
in Part

any rule promulgated, order issued or ordinance adopted under any of those sections or that chapter.

**Vetoed in Part** SECTION 34j. 35.50 (s) of the statutes is created to read:

35.50 (s) The department shall perform all printing and require all printing ordered under this chapter to be performed utilizing soy-based ink.

SECTION 34jr. 36.25 (3m) (c) of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

36.25 (3m) (c) The board shall conduct research into alternatives to solid waste disposal, including the reuse and recycling of materials, composting, source separation and the disposal of household hazardous wastes. The board shall also conduct research into the safe disposal of solid waste that cannot be composted or recycled. Research conducted under this paragraph shall include technologies suitable for application to waste streams of less than 50 tons of solid waste per day and shall consider the environmental effects of the technologies being researched and measures which could be taken to mitigate such effects. Research conducted under this paragraph shall be designed for the benefit of all public and private entities responsible for the collection, storage, transportation, treatment or disposal of solid waste and all persons who generate solid waste.

SECTION 34k. 36.25 (3m) (d) of the statutes is created to read:

36.25 (3m) (d) The board shall appoint a solid waste research council under s. 15.04 (1) (c) consisting of the chancellor of each institution that has faculty with expertise in solid waste disposal or his or her designee. The council shall advise the board concerning the awarding of funds appropriated under s. 20.285 (1) (c) for research projects under par. (c) proposed by institutions.

**Vetoed in Part**

SECTION 34p. 38.04 (18) of the statutes is created to read:

38.04 (18) RECYCLING PROGRAMS. The board shall direct one district board and may direct other district boards to develop courses, workshops, a resource center and an outreach program relating to recycling. Costs under this subsection shall be paid from the appropriation under s. 20.292 (1) (s).

**Vetoed in Part**

**Vetoed in Part** SECTION 34r. 38.28 (1m) (a) 1 of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

38.28 (1m) (a) 1. "District aidable cost" means the annual cost of operating a vocational, technical and adult education district, including debt service charges for district bonds and promissory notes for building programs or capital equipment, but excluding all expenditures relating to auxiliary enterprises and community service programs, all expenditures funded by or reimbursed with federal revenues, all receipts under s. 38.04 (18), all receipts under s. 38.12 (9), all receipts under s. 38.14 (3), all receipts under sub. (7), all receipts from grants awarded under ss. 38.04 (8), 38.14

(11) and 38.27, all fees collected under s. 38.24 and driver education and chauffeur training aids. **Vetoed in Part**

SECTION 34t. 38.28 (1m) (a) 1 of the statutes, as affected by 1989 Wisconsin Acts 31, 102 and ... (this act), is repealed and recreated to read:

38.28 (1m) (a) 1. "District aidable cost" means the annual cost of operating a vocational, technical and adult education district, including debt service charges for district bonds and promissory notes for building programs or capital equipment, but excluding all expenditures relating to auxiliary enterprises and community service programs, all expenditures funded by or reimbursed with federal revenues, all receipts under s. 38.04 (18), all receipts under s. 38.12 (9), all receipts under s. 38.14 (3), all receipts under s. 146.53 (5), all receipts from grants awarded under ss. 38.04 (8), 38.14 (11) and 38.27, all fees collected under s. 38.24 and driver education and chauffeur training aids.

SECTION 35. 59.07 (135) (L) of the statutes is amended to read:

59.07 (135) (L) Appropriate funds and levy taxes to provide funds for acquisition or lease of sites, easements, necessary facilities and equipment and for all other costs required for the solid waste management system except that no town, city or village which operates its own solid waste management program under s. 159.09 (2) (a) or waste collection and disposal facility, or property therein, shall be subject to any tax levied hereunder to cover the cost of operation capital and operating costs of these functions. Such appropriations may be treated as a revolving capital fund to be reimbursed from proceeds of the system.

SECTION 36. 66.299 (title) of the statutes is amended to read:

**66.299 (title) Local governmental purchasing.**

SECTION 37. 66.299 of the statutes is renumbered 66.299 (2) and amended to read:

66.299 (2) (title) INTERGOVERNMENTAL PURCHASES WITHOUT BIDS. Notwithstanding any statute requiring bids for public purchases, any city, village, town, county, mosquito control district or other local unit of government local governmental unit may make purchases from another unit of government, including the state or federal government, without the intervention of bids.

SECTION 38. 66.299 (1) of the statutes is created to read:

66.299 (1) DEFINITIONS. In this section:

(a) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an agency or corporation of such a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

(b) "Recycled or recovered content" has the meaning given in s. 16.70 (13).

SECTION 39. 66.299 (3) to (5) of the statutes are created to read:

66.299 (3) PURCHASE OF RECYCLED MATERIALS. (a) 1. A local governmental unit shall, to the extent prac-

ticable, make purchasing selections using specifications developed under s. 16.72 (2) (e) to maximize the purchase of products utilizing recycled or recovered materials.

**Vetoed in Part** 2. Each local governmental unit shall ensure that the average recycled or recovered content of all paper purchased by the local governmental unit, **Vetoed in Part** exclusive of tissue papers, measured as a proportion, by weight, of the fiber content of all **Vetoed in Part** nontissue paper products purchased in a year, is not less than the following:

- a. By 1991, 10% of all purchased nontissue paper.
- b. By 1993, 25% of all purchased nontissue paper.
- c. By 1995, 40% of all purchased nontissue paper.

**Vetoed in Part** (b) In reviewing bids for the purchase of a product for which the recycled or recovered content reasonably can be determined, a local governmental unit shall, for the purpose of calculating the lowest bid, reduce each bidder's actual bid price by 1% for every 10% of recycled or recovered content of the product offered by that bidder which is in excess of the minimum recycled or recovered content required under par. (a). A bidder who becomes the low bidder following such a calculation, and is awarded the contract, shall be paid his or her actual bid price.

**Vetoed in Part** (4) PURCHASE OF RECYCLABLE MATERIALS. (a) A local governmental unit shall, to the extent practicable, do all of the following:

**Vetoed in Part** 1. Make purchasing selections using specifications prepared under s. 16.72 (2) (f).

**Vetoed in Part** 2. Except as provided in par. (b), negotiate agreements to purchase products made from recyclable materials from vendors who agree to purchase like materials recovered from solid waste generated by the local governmental unit for use or reuse as a raw material in manufacturing.

(b) Paragraph (a) 2 does not apply if the local governmental unit has, or had at any time in the year preceding the purchase, a contract with a scrap dealer or processor to take the like materials for reuse or recycling.

(5) LIFE CYCLE COST ESTIMATE. A local governmental unit shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates whenever that action is appropriate. The terms, conditions and evaluation criteria to be applied shall be incorporated into the solicitation of bids or proposals. The life cycle cost formula may include, but is not limited to, the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance, and disposition or resale.

SECTION 39k. 66.30 (1) (a) of the statutes is amended to read:

66.30 (1) (a) In this section "municipality" means the state or any department or agency thereof, or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage dis-

trict, metropolitan sewerage district, sewer utility district, solid waste management system created under s. 59.07 (135), water utility district, mosquito control district, municipal electric company, county or city transit commission, commission created by contract under this section or regional planning commission.

SECTION 39r. 66.35 of the statutes is created to read:

**66.35 Medical waste incinerator fees.** (1) In this section:

(a) "Medical waste incinerator" has the meaning given in s. 159.07 (7) (c) 1. cr.

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

(2) A municipality may, by ordinance, impose a fee, in accordance with rules promulgated under s. 159.03 (1) (am), on the operator of a medical waste incinerator located in the municipality to cover the costs incurred because of the presence of the medical waste incinerator, including costs of monitoring emissions and of providing periodic notification to residents concerning the medical waste incinerator. The fee imposed under this section may not exceed \$1 per ton of waste that is incinerated at the medical waste incinerator unless the municipality and the operator of the medical waste incinerator agree to a higher fee.

SECTION 40. 66.606 of the statutes is created to read:

**66.606 Lien of recycling fees.** (1) In this section:

(a) "Recycling fee" means any of the following:

1. Any special assessment or special charge levied under any authority by a responsible unit for the purpose of complying with s. 159.09 (2).

2. Any charge made under any authority by any person acting under a contract with a responsible unit to provide a service required under s. 159.09 (2).

(b) "Responsible unit" has the meaning given in s. 159.01 (9).

(c) "Taxation district" has the meaning given in s. 74.01 (6).

(2) Any recycling fee which remains unpaid is a lien on the property against which it is levied or made on behalf of the responsible unit or person charging the recycling fee, from the date of the charge, to the same extent as a lien for a tax levied upon real property. Any unpaid recycling fee shall be certified to the taxation district in which the property is located, placed on the tax roll and collected as delinquent real property taxes are collected.

(3) The treasurer of the taxation district shall disburse to the proper responsible unit or person all collections of unpaid recycling fees which were placed upon the tax roll under sub. (2).

SECTION 40g. 73.01 (4) (a) of the statutes is amended to read:

73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5)

and ss. 70.11 (21), 70.38 (4) (a), 70.64, 70.995 (8), 72.86 (4), 76.38 (12) (a), 76.39 (4) (c), 76.48 (6), 77.26 (3), 77.59 (6) (b), 78.22, 139.03 (4), 139.315 and 139.78 and, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

SECTION 40h. 73.01 (4) (a) of the statutes, as affected by 1987 Wisconsin Acts 27, 312 and 399, is repealed and recreated to read:

73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and ss. 70.11 (21), 70.38 (4) (a), 70.64, 70.995 (8), 72.86 (4), 1985 stats., 76.38 (12) (a), 76.39 (4) (c), 76.48 (6), 77.26 (3), 77.59 (6) (b), 78.22, 139.03 (4), 139.315 and 139.78, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

SECTION 40j. 73.03 (27) (intro.) of the statutes is amended to read:

73.03 (27) (intro.) To write off from the records of the department income, franchise, sales, use, withholding, motor fuel, gift, beverage and cigarette tax and recycling fee liabilities, following a determination by the secretary of revenue that they are not collectible, as hereinafter provided:

SECTION 40m. 73.03 (36) of the statutes is created to read:

73.03 (36) To estimate revenues under s. 77.93 and submit to the governor, the joint committee on finance and the chief clerk of each house of the legislature for distribution under s. 13.172 (2), not later than November 20 of each even-numbered year, a report of its esti-

mate of those revenues for the current biennium and the following biennium.

SECTION 41. 74.01 (5) of the statutes is amended to read:

74.01 (5) "Special tax" means any amount entered in the tax roll which is not a general property tax, special assessment or special charge. "Special tax" includes any interest and penalties assessed for non-payment of the tax before it is placed in the tax roll and any charge under s. 66.606 (1) (a) 2 that is placed on the tax roll under s. 66.606 (2).

SECTION 42. Chapter 77 (title) of the statutes is amended to read:

#### CHAPTER 77

TAXATION OF FOREST CROPLANDS; REAL ESTATES  
TRANSFER FEES; SALES AND USE TAXES; PROPERTY  
TAX DEFERRAL; COUNTY SALES AND USE TAXES;  
MANAGED FOREST LAND; RECYCLING FEES

SECTION 42am. 77.51 (1m) and (3m) of the statutes are created to read:

77.51 (1m) "Cloth diaper" means a cloth diaper used for sanitary purposes.

(3m) "Diaper service" means a business primarily engaged in the lease or rental, delivery and laundering of cloth diapers.

SECTION 42g. 77.52 (2) (a) 6 of the statutes is amended to read:

77.52 (2) (a) 6. Laundry, dry cleaning, pressing and dyeing services, except when performed on raw materials or goods in process destined for sale, except when performed on cloth diapers by a diaper service and except when the service is performed by the customer through the use of coin-operated, self-service machines.

SECTION 42r. 77.54 (40) of the statutes is created to read:

77.54 (40) The gross receipts from the sale, lease or rental of and the storage, use or other consumption of cloth diapers.

SECTION 43. Subchapter VII of chapter 77 of the statutes is created to read:

#### CHAPTER 77

SUBCHAPTER VII  
RECYCLING FEES

**77.92 Definitions.** In this subchapter:

(1) "Farming" has the meaning given in section 464 (e) 1 of the internal revenue code.

(1m) "Gross receipts" means total receipts from all activities, less allowances and returns, reportable as follows:

(a) For corporations, the gross receipts reportable on the return for the taxes under ch. 71, except gross receipts from farming, as defined in section 464 (e) 1 of the internal revenue code and except that for non-profit corporations "gross receipts" means gross receipts from unrelated businesses the income of which is reportable under s. 71.24 (1m).

(b) For individuals, estates and trusts, the aggregate gross receipts reportable in calculating the profit or loss from all of the entity's trades and businesses, as defined in section 1402 (c) of the internal revenue code, not including farming, for purposes of the federal income tax.

(c) For insurers, the gross receipts reportable for purposes of the federal income tax.

(d) For partnerships, the gross receipts, except receipts from farming, reportable on the partnership's federal tax return.

(2) "Taxable gross receipts" means gross receipts as apportioned or allocated to this state by means of the methods used to apportion and allocate income for income or franchise tax purposes under s. 71.04 for individuals, estates, trusts and partnerships, except that income from business activities conducted outside this state by a resident individual, estate or trust shall not follow the individual's, estate's or trust's residence; under s. 71.25 for corporations; and under s. 71.45 (3) for insurers.

**77.93 Imposition.** There is imposed a recycling fee on the following entities:

(1) All corporations required to file a return under subch. IV or V of ch. 71 for the taxable year except corporations that are exempt from taxation under s. 71.26 (1) and that have no gross receipts from unrelated businesses the income of which is reportable under s. 71.24 (1m), and except corporations the only gross receipts of which are from farming, as defined in section 464 (e) 1 of the internal revenue code. The fee is imposed on tax-option corporations, not on their shareholders.

(2) All natural persons, estates and trusts that are required to file a return under subch. I or II of ch. 71 for the taxable year and that file a form indicating a profit or loss from a trade or business, as defined in section 1402 (c) of the internal revenue code, not including farming, for federal income tax purposes for the taxable year. The fee is not imposed on gross receipts of individuals for which the fee is imposed on a tax-option corporation of which an individual is a shareholder or a partnership of which an individual is a partner.

(3) All partnerships, except partnerships that have gross receipts only from farming, that are required to file a return under s. 71.20 (1) for the taxable year. The fee is imposed on the partnership, not on its partners.

(4) All insurers that are required to file a return under subch. VII of ch. 71 for the taxable year.

**77.94 Rates and brackets.** (1) The fee under s. 77.93 is imposed on the entity's aggregate taxable gross receipts during the taxable year and, except as provided in sub. (2), is calculated according to the following schedule:

(a) For taxable years ending after April 1, 1991, and ending before April 1, 1993:

1. If those receipts are less than \$1,000,000, \$0.
  2. If those receipts are at least \$1,000,000 but less than \$1,250,000, \$335. **Vetoed in Part**
  3. If those receipts are at least \$1,250,000 but less than \$1,500,000, \$435.
  4. If those receipts are at least \$1,500,000 but less than \$1,750,000, \$535.
  5. If those receipts are at least \$1,750,000 but less than \$2,000,000, \$635.
  6. If those receipts are at least \$2,000,000 but less than \$2,250,000, \$790. **Vetoed in Part**
  7. If those receipts are at least \$2,250,000 but less than \$2,500,000, \$950.
  8. If those receipts are at least \$2,500,000 but less than \$2,750,000, \$1,100.
  9. If those receipts are at least \$2,750,000 but less than \$3,000,000, \$1,270.
  10. If those receipts are at least \$3,000,000 but less than \$3,250,000, \$1,430. **Vetoed in Part**
  11. If those receipts are at least \$3,250,000 but less than \$3,500,000, \$1,590. **Vetoed in Part**
  12. If those receipts are at least \$3,500,000 but less than \$3,750,000, \$1,780. **Vetoed in Part**
  13. If those receipts are at least \$3,750,000 but less than \$4,000,000, \$1,970. **Vetoed in Part**
  14. If those receipts are at least \$4,000,000 but less than \$4,250,000, \$2,170. **Vetoed in Part**
  15. If those receipts are at least \$4,250,000 but less than \$4,500,000, \$2,370.
  16. If those receipts are at least \$4,500,000 but less than \$4,750,000, \$2,570.
  17. If those receipts are at least \$4,750,000 but less than \$5,000,000, \$2,770.
  18. If those receipts are at least \$5,000,000 but less than \$5,250,000, \$2,970.
  19. If those receipts are at least \$5,250,000 but less than \$5,500,000, \$3,170.
  20. If those receipts are at least \$5,500,000 but less than \$5,750,000, \$3,380.
  21. If those receipts are at least \$5,750,000 but less than \$6,000,000, \$3,630.
  22. If those receipts are at least \$6,000,000, \$3,950.
- (b) For taxable years ending after April 1, 1993:
1. If those receipts are less than \$1,000,000, \$0.
  2. If those receipts are at least \$1,000,000 but less than \$1,250,000, \$450.
  3. If those receipts are at least \$1,250,000 but less than \$1,500,000, \$580.
  4. If those receipts are at least \$1,500,000 but less than \$1,750,000, \$710.
  5. If those receipts are at least \$1,750,000 but less than \$2,000,000, \$845.
  6. If those receipts are at least \$2,000,000 but less than \$2,250,000, \$1,050.
  7. If those receipts are at least \$2,250,000 but less than \$2,500,000, \$1,265.

Vetoed  
in Part

~~8. If those receipts are at least \$2,500,000 but less than \$2,750,000, \$1,480.~~

~~9. If those receipts are at least \$2,750,000 but less than \$3,000,000, \$1,695.~~

~~10. If those receipts are at least \$3,000,000 but less than \$3,250,000, \$1,910.~~

~~11. If those receipts are at least \$3,250,000 but less than \$3,500,000, \$2,125.~~

~~12. If those receipts are at least \$3,500,000 but less than \$3,750,000, \$2,370.~~

~~13. If those receipts are at least \$3,750,000 but less than \$4,000,000, \$2,625.~~

~~14. If those receipts are at least \$4,000,000 but less than \$4,250,000, \$2,885.~~

~~15. If those receipts are at least \$4,250,000 but less than \$4,500,000, \$3,145.~~

~~16. If those receipts are at least \$4,500,000 but less than \$4,750,000, \$3,410.~~

~~17. If those receipts are at least \$4,750,000 but less than \$5,000,000, \$3,680.~~

~~18. If those receipts are at least \$5,000,000 but less than \$5,250,000, \$3,950.~~

~~19. If those receipts are at least \$5,250,000 but less than \$5,500,000, \$4,225.~~

~~20. If those receipts are at least \$5,500,000 but less than \$5,750,000, \$4,505.~~

~~21. If those receipts are at least \$5,750,000 but less than \$6,000,000, \$4,840.~~

~~22. If those receipts are at least \$6,000,000, \$5,265.~~

(2) (a) In this subsection:

1. "Begins to do business" includes but is not limited to a change in corporate form and the occurrence of any event that creates a short taxable year for purposes of the taxes under ch. 71.

2. "Ceases to do business" includes but is not limited to a change in corporate form, the death of an individual and the occurrence of any event that creates a short taxable year for purposes of the taxes under ch. 71.

(b) If an entity begins to do business in this state after the beginning of its taxable year or ceases to do business in this state before the end of its taxable year, the fee imposed on it under s. 77.93 is calculated as follows:

1. Multiply its taxable gross receipts for the taxable year by a fraction the numerator of which is 365 and, if the entity begins to do business in this state after the beginning of its taxable year, the denominator of which is the number of days from the day that it begins to do business in this state until the end of its taxable year and, if the entity ceases to do business in this state before the end of its taxable year, the denominator of which is the number of days from the beginning of its taxable year until the day that it ceases to do business in this state and, if the entity both begins to do business in this state after the beginning of its taxable year and ceases to do business in this state before the end of its taxable year, the denominator of

which is the number of days from the day that it begins to do business in this state to the day that it ceases to do business in this state.

2. Determine the fee that would be imposed under sub. (1) on the taxable gross receipts calculated under subd. 1.

3. Divide the fee under subd. 2 by the fraction under subd. 1.

**77.95 Interest and penalties.** The interest and penalty provisions under ss. 71.82 (1) (a) and (b) and (2) (a) and (b), 71.83 (1) (a) 1, 2 and 7 and (b) 1, (2) (a) 1 to 3 and (b) 1 to 3 and (3) and 71.85, as they apply to the taxes under ch. 71, apply to the fees under this subchapter.

**77.96 Administration.** (1) An entity's taxable year for the fee under this subchapter is the same as the entity's taxable year for the taxes under ch. 71.

(2) The fees under this subchapter are due on the date on which the entity's return under ch. 71 is due ~~without regard to any extensions.~~

Vetoed  
in Part

(3) The department of revenue shall levy, enforce and collect the fees under this subchapter.

(4) Sections 71.74 (1) to (3), (6), (7) and (9) to (15), 71.75 (1), (2), (4), (5) and (6) to (10), 71.76, 71.77, 71.78 (1) to (8), 71.80 (1) (a) to (d), (3), (3m), (6), (8) to (12), (14) and (18), 71.87, 71.88, 71.89, 71.90 and 71.91, as they apply to the taxes under ch. 71, apply to the fees under this subchapter.

**77.97 Use of revenue.** The department of revenue shall deposit fees, interest and penalties collected under this subchapter in the recycling fund under s. 25.49.

SECTION 44. 84.078 (title) of the statutes is amended to read:

**84.078 (title) use of recovered material.**

SECTION 45. 84.078 (1) of the statutes is renumbered 84.078 (1) (intro.) and amended to read:

84.078 (1) (intro.) In this section, "~~waste~~:"

(b) "~~Waste tire~~" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

SECTION 46. 84.078 (1) (a) of the statutes is created to read:

84.078 (1) (a) "~~Recovered material~~" means a material that is recovered or derived from solid waste.

SECTION 47. 84.078 (2) of the statutes is amended to read:

84.078 (2) The department shall use or encourage the use of the maximum possible amount of recovered material, including ash from industrial or utility boilers, foundry sand, glass, paper mill sludge, wastepaper, pavement and rubber recovered from waste tires as surfacing material, structural material, landscaping material and fill for all highway improvements, as defined under s. 84.06 (1), consistent with standard engineering practices. The department shall specify the proportion of recovered ~~rubber material~~ that may be used in various types of highway improvements.

SECTION 47j. 86.07 (title) and (1) of the statutes are amended to read:

**86.07 (title) Digging in highways or using bridges for advertising.** (1) Any person who ~~throws, leaves or deposits any weeds, sod, brush or other waste or rubbish in any highway shall be fined not less than \$10 nor more than \$200 or imprisoned not more than 30 days or both; and every person who~~ draws, paints, prints or pastes upon any culvert, bridge or guard rail on any highway shall be ~~liable to a like fine~~ fined not less than \$10 nor more than \$200 or imprisoned for not more than 30 days or both.

SECTION 47m. 93.55 of the statutes is created to read:

**93.55 Chemical and container collection demonstration grants.** (1) DEFINITIONS. In this section:

(a) "Chemical" means a chemical, including a pesticide, that is used for agricultural purposes.

(b) "Pesticide" has the meaning given in s. 94.67 (25).

(2) DEMONSTRATION GRANTS. The department may award a grant to a county for a chemical and container collection demonstration program. A grant under this subsection shall fund 100% of the cost of a demonstration program. Costs eligible for funding include the cost of establishing a collection site for chemicals and chemical containers, the cost of transporting chemical containers to a dealer or distributor for refill and reuse or to a hazardous waste facility, as defined in s. 144.61 (5m), and costs associated with the proper use and handling and disposal or recycling of chemicals and chemical containers. Grants shall be paid from the appropriation under s. 20.115 (7) (e).

(2m) FARMER LIABILITY. To the extent permitted under federal regulations, a county establishing a chemical and container collection demonstration program under sub. (2), in cooperation with the department, shall ensure that a farmer, as defined in s. 102.04 (3), who participates in the demonstration program is not liable for chemicals or chemical containers collected under the demonstration program after the farmer relinquishes control over the chemicals or chemical containers.

(4) SUNSET. This section does not apply after June 30, 1991.

SECTION 47s. 100.285 of the statutes is created to read:

**100.285 Reduction of toxics in packaging.** (1) DEFINITION. In this section, "packaging component" means any individual assembled part of a package, including any interior or exterior blocking, bracing, cushioning, weatherproofing, coating, closure, ink or label.

(2) RESTRICTION. Except as provided in sub. (3), a manufacturer or distributor may not sell a package, packaging material or packaging component with a total concentration of lead, cadmium, mercury plus hexavalent chromium that exceeds:

(a) Beginning on the first day of the 25th month beginning after the effective date of this paragraph ... [revisor inserts date], 600 parts per million.

(b) Beginning on the first day of the 37th month beginning after the effective date of this paragraph ... [revisor inserts date], 250 parts per million.

(c) Beginning on the first day of the 49th month beginning after the effective date of this paragraph ... [revisor inserts date], 100 parts per million.

(3) EXCEPTIONS. (a) Before the first day of the 73rd month beginning after the effective date of this paragraph ... [revisor inserts date], sub. (2) does not apply with respect to a package, packaging material or packaging component made from recycled materials.

(b) Subsection (2) does not apply with respect to a package, packaging material or packaging component if a higher total concentration of lead, cadmium, mercury plus hexavalent chromium is necessary to meet federal health or safety requirements.

(c) Subsection (2) does not apply with respect to a package, packaging material or packaging component for which there is no feasible alternative that satisfies the limitations in sub. (2).

(5) NO PENALTY. A person who violates sub. (2) is not subject to a penalty.

(6) REPORT. The department shall review the effectiveness of subs. (1) to (5) and shall report the results of the review, including a recommendation of whether enforcement provisions and penalties should be instituted, on or before the first day of 37th month beginning after the effective date of this subsection ... [revisor inserts date], to the governor and to the chief clerk of each house of the legislature for distribution under s. 13.172 (2).

SECTION 48b. 100.29 of the statutes is created to read:

**100.29 Sale of nonrecyclable materials restricted.** **Vetoed in Part**  
(1) DEFINITIONS. In this section,

~~(a) "Loose packaging" means packaging consisting of loose particles intended to fill empty space and cushion the packaged article in a shipping container.~~

~~(aw) "New packaging" means packaging, including a container, made from a material or a combination of materials not used in any packaging, exclusive of any closure or label, that is in commerce in this state on or before the effective date of this paragraph ... [revisor inserts date].~~

~~(bc) "Plastic container" has the meaning given in s. 100.33 (1) (c).~~ **Vetoed in Part**

~~(c) "Shaped packaging" means packaging consisting of rigid materials shaped to hold and cushion the packaged article in a shipping container.~~

~~(2) RESTRICTIONS. (a) Beginning on July 1, 1991, no person may sell or offer for sale at retail any beverage in a rigid container with a body made primarily of plastic and one or both ends made primarily of aluminum.~~



Vetoed  
in Part

~~(b) Beginning on the effective date of a rule promulgated under sub. (3) (b), no person may sell or offer for sale at retail any food or beverage in a type of new packaging identified in that rule.~~

~~(dm) Beginning on the effective date of a rule promulgated under sub. (3g), no person may sell or offer for sale at retail packaging material identified in that rule or any product contained in packaging material identified in that rule.~~

~~(g) Beginning on January 1, 1991, a person who offers to a customer, at a retail establishment, a bag for the purpose of carrying away from the retail establishment items purchased by the customer may only offer a paper bag and a person may only provide a plastic bag for that purpose if the customer requests a plastic bag.~~

(3) NEW PACKAGING. (a) If the department receives a complaint that there is not an adequate market to make recycling of a type of new packaging economically feasible, the department shall investigate the complaint. If the department determines that the product has been in commerce in this state for at least 3 years and that the complaint is well-founded, it shall inform the manufacturer or distributor of the new packaging and attempt to ensure an adequate market within a reasonable period through negotiations.

(b) The department shall identify by rule a type of new packaging for food or beverages to which all of the following apply:

1. After at least 3 years in commerce in this state, there is not an adequate market to make recycling of the type of new packaging economically feasible.

2. The department received a complaint under par. (a) about the type of new packaging material.

3. Negotiations under par. (a) did not result in an adequate market.

(c) The department shall promulgate rules for determining whether there is an adequate market to make recycling of new packaging economically feasible.

Vetoed  
in Part

~~(3g) RULES BASED ON VARIANCES. (a) The department shall identify by rule a plastic container, foam polystyrene packaging, as defined in s. 159.01 (2), or any type of packaging that contains carbonated or malt beverages about which the department receives a notification from the department of natural resources under s. 159.11 (2s) (a).~~

~~(b) Except as provided in par. (c), a rule promulgated under par. (a) takes effect on the first day of the 25th month beginning after the department receives the notification under s. 159.11 (2s) (a).~~

~~(c) A rule promulgated under par. (b) does not take effect if, prior to the effective date under par. (b), the department receives notification from the department of natural resources under s. 159.11 (2s) (b) concerning the packaging material.~~

(4) PENALTY. Any person who violates sub. (2) may be required to forfeit not more than \$500 for each vio-

~~lation. Each day of violation constitutes a separate offense.~~

Vetoed  
in Part

SECTION 49. 100.295 of the statutes is created to read:

**100.295 Labeling of recycled, recyclable or degradable products.** (1) LABELING STANDARDS. (a) The department shall establish, ~~by rule,~~ standards that must be met by products in order for any person to represent that the products are recycled, recyclable or degradable. The department shall establish standards that are consistent, to the greatest extent practicable, with nationwide industry consensus standards. The department shall promulgate the rules to ensure all of the following:

Vetoed  
in Part

Vetoed  
in Part

1. That a product represented as being degradable is capable of degrading or decomposing sufficiently so as to be unrecognizable within a reasonable period of exposure to the physical environment or biological organisms.

2. That a product represented as being recyclable is manufactured from or consists of materials or configurations of materials for which, at the time that they become waste, all of the following exist:

a. Commercially demonstrated processing and manufacturing technologies that use the materials as a raw material.

b. A system for the collection of the materials for use as a raw material in manufacturing that serves at least 50% of the population of the state.

3. That a product represented as being recycled is manufactured from or consists of, in whole or part, materials derived from solid waste.

(b) In developing standards under par. (a), the department shall consult with the department of natural resources and the council on recycling and consider purchasing specifications under s. 16.72 (2) (e) and (f) and any existing federal standards. The department shall give priority to establishing standards for specific products commonly represented as being recycled, recyclable or degradable.

(2) FALSE ADVERTISING PROHIBITED. No person may represent any product as being recycled, recyclable or degradable unless the product meets standards established under sub. (1) (a).

Vetoed  
in Part

(3) PENALTY. Any person who violates sub. (2) may be required to forfeit not less than \$100 nor more than \$10,000 for each violation.

SECTION 49b. 100.296 of the statutes is created to read:

Vetoed  
in Part

**100.296 Logo for recycled and recyclable products.** (1) The department shall promulgate rules authorizing the use of an official logo or logos to identify consumer products as recycled or recyclable. The rules promulgated under this section shall include criteria for determining whether a product or its labeling may display the logo or logos. The department shall conduct a contest to select the official logo or logos to identify consumer products as recycled or recyclable.

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**Vetoed in Part** (2) Any person who displays an official logo in violation of rules promulgated under sub. (1) may be required to forfeit not more than \$500.

SECTION 49c. 100.297 of the statutes is created to read:

**100.297 Plastic container recycled content.** (1) DEFINITION. In this section, "plastic container" means a plastic container, as defined in s. 100.33 (1) (c), that is required to be labeled under s. 100.33 (2).

**Vetoed in Part** (2) PROHIBITION. Except as provided in sub. (3),

**Vetoed in Part** (a) Beginning on January 1, 1993, no person may sell or offer for sale at retail any product in a plastic container unless the plastic container consists of at least 10% recycled or remanufactured material, by weight.

**Vetoed in Part** (b) Beginning on January 1, 1995, no person may sell or offer for sale at retail any product in a plastic container unless the plastic container consists of at least 25% recycled or remanufactured material, by weight.

(3) EXCEPTION. Subsection (2) applies to a person who sells or offers to sell a food, beverage or drug in a plastic container if the federal food and drug administration has approved the use of the specified recycled or remanufactured content in that plastic container.

SECTION 49d. 100.33 (1) (ad) of the statutes is created to read:

100.33 (1) (ad) "Blister pack" means a container in which an item has a covering of plastic film or preformed semirigid plastic and the covering is affixed to a rigid backing.

SECTION 49dm. 100.33 (1) (c) of the statutes is amended to read:

100.33 (1) (c) "Plastic container" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale, as defined under s. 100.30 (2) (h).

SECTION 49e. 100.33 (2) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

100.33 (2) LABELING RULES REQUIRED. The department shall promulgate rules establishing labeling requirements for plastic containers. The requirements shall be designed to provide information needed by operators of material recovery programs to facilitate the recycling, reclamation or reuse of plastic containers. The rules promulgated under this subsection shall permit a manufacturer of plastic containers and a person who places products in plastic containers to choose an appropriate method of labeling plastic containers. The department shall make an effort to develop rules which are consistent, to the greatest extent practicable, with national industry-wide plastic container coding systems.

**Vetoed in Part** The rules shall exempt from the labeling requirements plastic containers that are readily identifiable because of their appearance and plastic containers for which there is no technolog-

ical capability for recycling, reclamation or reuse or for which recycling, reclamation or reuse is not economically feasible. In determining the types of plastic containers to exempt from the labeling requirements, the department shall consult with the department of natural resources.

**Vetoed in Part**

SECTION 49g. 100.33 (3m) of the statutes is created to read:

100.33 (3m) VARIANCES. Upon the request of a manufacturer, the department may grant a variance to a prohibition in sub. (3) for up to one year for a type of plastic container. The department may renew a variance for up to one year. The department may only grant a variance if it is not technologically possible to label the plastic container. The department may not grant or renew a variance after January 1, 1992.

**Vetoed in Part**

**Vetoed in Part**

**Vetoed in Part**

SECTION 50. 101.126 of the statutes is created to read:

**101.126 Recycling space.** (1) The department shall establish, by rule, requirements for a person engaging in any of the following to provide adequate space in or adjacent to the building for the separation, temporary storage and collection of the materials listed in s. 159.07 (3) or (4) or identified by rule under s. 159.07 (5), likely to be generated by the occupants of the building:

(a) The construction of a public building.

(b) An increase in the size of a public building by 50% or more.

(c) An alteration of 50% or more of the existing area of a public building that is 10,000 square feet or more in area.

(1m) In developing the requirements under sub. (1), the department shall consult with the council on recycling.

SECTION 50c. 110.07 (1) (a) 1 of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and chs. 166, 194, 218, 341 to 349 and 351, and ss. 23.33, 125.07 (4) (b), 125.08 (3) (b), 125.085 (3) (b), 159.81 and 167.31 (2) (b) to (d) and ch. 350 where applicable to highways, or orders or rules issued pursuant thereto.

SECTION 50d. 110.07 (1) (a) 3 and (b) of the statutes are amended to read:

110.07 (1) (a) 3. Have authority to enter any place where vehicles subject to this chapter, s. ss. 159.81 and 167.31 (2) (b) to (d) and chs. 194, 218 and 341 to 350 are stored or parked at any time to examine such vehicles, or to stop such vehicles while en route at any time upon the public highways to examine the same and make arrests for all violations thereof.

(b) All municipal judges, judges, district attorneys and law enforcement officers shall assist in enforcing this chapter, s. ss. 159.81 and 167.31 (2) (b) to (d) and chs. 194, 218 and 341 to 351, and orders or rules issued pursuant thereto and shall report to the department

the disposition of every uniform traffic citation and complaint issued for cases involving such chapters.

SECTION 50mg. 144.045 of the statutes is repealed.

SECTION 50mh. 144.31 (3) of the statutes is created to read:

144.31 (3) (a) In this subsection, "solid waste treatment" has the meaning given in s. 144.43 (7r).

(b) The department shall, by rule, establish a program for the certification of persons participating in or responsible for the operation of solid waste treatment facilities that have the capacity to burn more than 5 tons per day. The certification requirements shall take effect on July 1, 1990. The department shall do all of the following:

1. Identify those persons or positions involved in the operation of a solid waste treatment facility who are required to obtain certification.
2. Establish the requirements for and term of initial certification and requirements for recertification upon expiration of that term. At a minimum, the department shall require applicants to complete a program of training and pass an examination in order to receive initial certification.
3. Establish different levels of certification and requirements for certification for different sizes or types of facilities, as the department determines is appropriate.
4. Impose fees for the operator training and certification program.
5. Require that there be one or more certified operators on the site of a solid waste treatment facility at all times during the facility's hours of operation.

(bm) The program under par. (b) does not apply with respect to any of the following:

1. A facility described in s. 159.07 (7) (bg).
2. A solid waste treatment facility for the treatment of hazardous waste.
3. A solid waste treatment facility for high-volume industrial waste as defined in s. 144.44 (7).

(c) The training required under par. (b) 2 may be conducted by the department or by another person with the approval of the department.

(d) The department may suspend or revoke a solid waste treatment facility's operating license if persons at the facility fail to obtain certification required under par. (b) 1 or for failure to have a certified operator on the site as required under par. (b) 5.

(e) The department may suspend or revoke an operator's certification for failure to comply with ss. 144.30 to 144.426, rules promulgated under those sections or conditions of operation made applicable to a solid waste treatment facility by the department.

SECTION 50mi. 144.382 of the statutes is created to read:

**144.382 Testing emissions from certain medical waste incinerators.** (1) **APPLICABILITY.** This section applies to a medical waste incinerator, as defined in s.

159.07 (7) (c) 1. cr, that begins operation on or after January 1, 1990, has a capacity of 25 tons or more per day and is located in Burnett, Dunn, Kenosha, Milwaukee, Ozaukee, Pierce, Polk, Racine, St. Croix, Walworth, Washington or Waukesha county.

(2) **REQUIREMENTS.** (a) A person operating or responsible for the operation of a medical waste incinerator described in sub. (1) shall test emissions of particulates, dioxins, furans, arsenic, lead, hexavalent chromium, cadmium, mercury and any other hazardous substance identified by the department by rule, at least as often as follows:

1. During the initial 90-day period of operation.
2. One year following the initial 90-day period of operation.
3. Every 2 years following the testing under subd. 2.

(b) A person operating or responsible for the operation of a medical waste incinerator described in sub. (1) shall report the results of the testing under par. (a) to the department and the city, village or town in which the medical waste incinerator is located.

(3) **ANALYSIS.** (a) The department shall provide an analysis of the test results submitted under sub. (2) (b) to the city, village or town in which the medical waste incinerator is located.

(b) The city, village or town in which the medical waste incinerator is located shall publish the analysis provided under par. (a) as a class 1 notice under ch. 985.

(c) The department may charge the person operating or responsible for the operation of the medical waste incinerator a fee for reviewing and preparing the analysis of the test results.

~~SECTION 50min. 144.393 (10) of the statutes is created to read:~~

~~144.393 (10) **REQUIREMENTS FOR SOLID WASTE INCINERATORS.** (a) In this section:~~

- ~~1. "Incinerator" means a stationary source that is a solid waste treatment facility that burns solid waste.~~
- ~~2. "Solid waste facility" has the meaning given in s. 144.43 (5).~~
- ~~3. "Solid waste treatment" has the meaning given in s. 144.43 (7r).~~

~~(b) In addition to the requirements under subs. (1) to (3), the department may approve the application for a permit required or allowed under s. 144.391 if it finds that the incinerator will be needed and the site of the incinerator is appropriate.~~

~~(c) The department shall consider all of the following in evaluating the need for the proposed incinerator:~~

- ~~1. An approximate service area for the proposed incinerator that encompasses all sources of waste that could potentially be burned in the incinerator. The department shall delineate the service area based on the economics of waste collection, transportation and treatment.~~

**Vetoed in Part**

Vetoed  
in Part

~~2. The quantity of waste that could potentially be burned in the proposed incinerator and that is generated within the anticipated service area.~~

~~3. The remaining capacity or design capacity of other solid waste facilities, if those facilities are located within the anticipated service area of the proposed incinerator and are currently providing or are expected to provide solid waste management for any sources of solid waste that could potentially be burned in the incinerator.~~

~~4. The quantity of waste that could potentially be burned in the incinerator that may be managed in an effective recycling program created under s. 159.11.~~

~~(d) The department may not determine that the site of a proposed incinerator is appropriate if the incinerator or the transportation of solid waste to the incinerator will have an adverse effect that is both substantial and unreasonable on any of the following:~~

- ~~1. Existing recreational land uses.~~
- ~~2. Land or surface water that has any of the characteristics under s. 23.27 (2).~~
- ~~3. Scenic vistas of statewide significance.~~
- ~~4. Residential property.~~
- ~~5. Schools, churches, hospitals, nursing homes or day care facilities.~~
- ~~6. Projected land uses identified in any municipal master plan or official map that is in effect at least 15 months prior to the submission to the department of the permit application, if the land uses are expected to occur during the site life of the incinerator and any expansions of the incinerator.~~

~~(e) This subsection does not apply to a source identified in s. 159.07 (7) (bg).~~

~~(f) This subsection applies to an incinerator for which a permit is issued under section 144.391 of the statutes after December 31, 1989, and construction commences on or after the effective date of this paragraph. [revisor inserts date].~~

SECTION 50mj. 144.395 (1) (f) of the statutes is created to read:

144.395 (1) (f) *Local request.* A request for changes in the air pollution control permit of a medical waste incinerator, as defined in s. 159.07 (7) (c) 1. cr, that has a capacity of 5 tons or more per day made by the governing body of a city, village or town in which the medical waste incinerator is located if the department determines that the changes are reasonable to protect the public health and the environment.

SECTION 50mk. 144.43 (2w) of the statutes is created to read:

144.43 (2w) "Landfill" means a solid waste facility for solid waste disposal.

SECTION 50mm. 144.43 (3m) of the statutes is created to read:

144.43 (3m) "Municipal waste landfill" means a solid waste disposal facility that is not one of the following:

(a) A solid waste disposal facility designed exclusively for the disposal of waste generated by a pulp mill, paper mill, foundry, prospecting or mining operation, electric or process steam generating facility or demolition activity.

(b) A hazardous waste disposal facility.

SECTION 50n. 144.431 (1) (f) of the statutes is created to read:

144.431 (1) (f) Provide technical assistance for the closure of a solid waste disposal facility that is a non-approved facility, as defined in s. 144.441 (1) (c).

SECTION 50nc. 144.433 (2) (a) of the statutes is renumbered 144.433 (2) (a) 1.

SECTION 50nce. 144.433 (2) (a) 2 of the statutes is created to read:

144.433 (2) (a) 2. A licensed hauler who transports solid waste to a facility listed in s. 144.453 (1) may seek confidential treatment of information submitted under s. 144.453 (1) (d).

SECTION 50ncg. 144.433 (2) (b) of the statutes is amended to read:

144.433 (2) (b) *Standards for granting confidential status.* Except as provided under par. (c), the department shall grant confidential status for any records or information received by the department and certified by the owner or operator of the solid waste facility or by the licensed hauler as relating to production or sales figures or to processes or production unique to the owner or operator of the solid waste facility or which would tend to adversely affect the competitive position of the owner or operator if made public.

SECTION 50ne. 144.435 (title) of the statutes is amended to read:

**144.435 (title) Solid waste management standards.**

SECTION 50ng. 144.435 (3) of the statutes is created to read:

144.435 (3) (a) The department shall, by rule, establish a program for the certification of persons participating in or responsible for the operation of solid waste disposal facilities. The department shall do all of the following:

1. Identify those persons or positions involved in the operation of a solid waste disposal facility who are required to obtain certification.
2. Establish the requirements for and term of initial certification and requirements for recertification upon expiration of that term. At a minimum, the department shall require applicants to complete a program of training and pass an examination in order to receive initial certification.
3. Establish different levels of certification and requirements for certification for different sizes or types of facilities, as the department determines is appropriate.
4. Impose fees for the operator training and certification program.
5. Require that there be one or more certified operators on the site of a solid waste disposal facility,

except for a facility designed for the disposal of high-volume industrial waste, as defined in s. 144.44 (7) (a) 1, at all times during the facility's hours of operation.

(b) The department may not apply the requirements established under par. (a) to a nonapproved facility, as defined in s. 144.441 (1) (c), until January 1, 1992.

(c) The training required under par. (a) 2 may be conducted by the department or by another person with the approval of the department.

(d) The department may suspend or revoke a solid waste disposal facility's operating license if persons at the facility fail to obtain certification required under par. (a) 1 or for failure to have a certified operator on the site as required under par. (a) 5.

(e) The department may suspend or revoke an operator's certification for failure to comply with ss. 144.43 to 144.47, rules promulgated under those sections or conditions of operation made applicable to a solid waste disposal facility by the department.

SECTION 50ni. 144.435 (4) of the statutes is created to read:

144.435 (4) (a) No person engaged in the construction, operation or maintenance of a solid waste disposal facility or hazardous waste disposal facility may dismiss, discipline, demote, transfer, reprimand, harass, reduce the pay of, discriminate against or otherwise retaliate against any employe, or threaten to take any of those actions, because the employe reported to any supervisor, appointing authority, law enforcement official, member of the governing body of the local governmental unit in which the solid waste disposal facility or hazardous waste disposal facility is located or the department any information gained by the employe which the employe reasonably believes demonstrates a violation of ss. 144.43 to 144.47 or rules promulgated under those sections.

(b) Paragraph (a) does not restrict the right of an employer to take appropriate disciplinary action against an employe who knowingly makes an untrue statement or discloses information the disclosure of which is expressly prohibited by state or federal law.

(c) 1. Any employe who believes that his or her rights under par. (a) have been violated may, within 30 days after the violation occurs or the employe obtains knowledge of the violation, whichever is later, file a written complaint with the department specifying the nature of the retaliatory action or threat of retaliatory action and requesting relief. The department shall investigate the complaint and shall determine whether there is probable cause to believe that a violation of par. (a) has occurred. If the department finds that probable cause exists, it shall attempt to resolve the complaint by conference, conciliation or persuasion. If the complaint is not resolved, the department shall proceed with notice and a contested case hearing on the complaint as provided in ch. 227. The hearing shall be held within 60 days after receipt of the com-

plaint by the department, unless the parties to the proceeding agree otherwise.

2. The department shall issue its decision and order on the complaint within 30 days after the hearing. If the department finds that a violation of par. (a) has occurred, it may order the employer to take action to remedy the effects of the violation, including reinstating the employe, providing back pay to the employe or taking disciplinary action against employes responsible for the violation.

(d) This subsection does not limit other protections or remedies available to an employe, including those granted by ordinance, statute, rule, contract or collective bargaining agreement.

SECTION 50nk. 144.44 (1) (a) of the statutes is renumbered 144.44 (1) (am).

SECTION 50nn. 144.44 (1) (a) of the statutes is created to read:

144.44 (1) (a) "Approved facility" has the meaning given in s. 144.441 (1) (a).

SECTION 50oc. 144.44 (1c) of the statutes is created to read:

144.44 (1c) INITIAL SITE REPORT. (a) *Initial site report required.* Prior to constructing a landfill, the person who seeks to construct the facility shall submit to the department an initial site report. The department shall specify by rule the minimum contents of an initial site report.

(b) *Determination if initial site report is complete.* Within 30 days after an initial site report is submitted, the department shall either determine that the initial site report is complete or notify the applicant in writing that the initial site report is not complete and specify the information which is required to be submitted before the initial site report is complete. The department shall notify the applicant in writing when the initial site report is complete.

~~SECTION 50oe. 144.44 (1g) of the statutes is created to read:~~

**Vetoed in Part**

~~144.44 (1g) REVIEW OF SITE APPROPRIATENESS (a) *Submission of information.* After the department determines that the initial site report is complete under sub. (1c) (b), the applicant shall submit any information considered necessary by the department to make the determination under this subsection, including all of the following:~~

~~1. A description of how the proposed landfill relates to any applicable county solid waste management plan approved under s. 144.437.~~

~~2. A description of the advisory process undertaken by the applicant prior to submittal of the feasibility report to provide information to the public and affected municipalities and to solicit public opinion on the proposed landfill.~~

~~3. Sufficient information to make the determination of need for the landfill under this subsection.~~

~~4. An analysis of alternatives to the land disposal of waste including waste reduction, reuse, recycling, composting and energy recovery.~~

Vetoed  
in Part

5. A description of any waste reduction initiatives and recycling services to be instituted or provided with the proposed landfill.

(b) *Preliminary determination of environmental impact statement is required.* Immediately after the department determines that the information under par. (a) is complete, the department shall issue a preliminary determination on whether an environmental impact statement is required under s. 1.11 prior to the determination of site appropriateness. If the department determines that a determination of site appropriateness cannot be made without an environmental impact statement or if the department intends to require an environmental impact report under s. 23.11 (5), the department shall notify the applicant in writing within the 60-day period of these decisions and shall commence the process required under s. 1.11 or 23.11 (5).

(c) *Environmental impact statement process.* If an environmental impact statement is required, the department shall conduct the hearing required under s. 1.11 (2) (d) in an appropriate place it designates in a county, city, village or town that would be substantially affected by the operation of the proposed landfill. The hearing on the environmental impact statement is not a contested case. The department shall issue its determination of the adequacy of the environmental impact statement within 30 days after the close of the hearing. Except as provided under s. 144.836, the department shall complete any environmental impact statement process required under s. 1.11 before proceeding with the site appropriateness review process under this subsection.

(d) *Notification.* Immediately after the department issues a preliminary determination that an environmental impact statement is not required or, if it is required, immediately after the department issues the environmental impact statement, the department shall publish a class 1 notice under ch. 985 in the official newspaper designated under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give notice in the area of the proposed landfill. The notice shall include a statement that the applicant has requested a determination under this subsection. The notice shall invite the submission of written comments by any person within 30 days after the notice. The notice shall describe the methods by which a hearing may be requested. The department shall distribute a copy of the notice to each person listed in sub. (4m).

(e) *Informational hearing.* Any person may request an informational hearing within the 30-day period after the notice under par. (d). The department shall conduct an informational hearing if there is a substantial public interest in holding a hearing.

(f) *Contested case hearing.* 1. Within 30 days after the notice under par. (d), any county, city, village or town, the applicant or any 6 or more persons may file a written request that the department conduct a contested case hearing, as provided under s. 227.42. A

county, city, village or town, the applicant or any 6 or more persons have a right to have the hearing treated as a contested case only if all of the following apply:

a. A substantial interest of the person requesting the treatment of the hearing as a contested case is injured in fact or threatened with injury by the department's action or inaction on this matter.

b. The injury to the person requesting the treatment of the hearing as a contested case is different in kind or degree from injury to the general public caused by the department's action or inaction on the matter.

c. There is a dispute of material fact.

2. Any denial of a request for the treatment of the hearing as a contested case received within the 30-day period under par. (d) shall be in writing, shall state the reasons for denial and is an order reviewable under ch. 227. If the department does not enter an order granting or denying the request for the treatment of the hearing as a contested case within 20 days after the written request is filed, the request is deemed denied.

3. The division of hearings and appeals in the department of administration shall schedule the hearing to be held within 120 days after the expiration of the 30-day period under par. (d).

4. The final determination of site appropriateness shall be issued within 90 days after the hearing is adjourned.

(g) *Determination of site appropriateness; environmental impact.* The department may receive into evidence at a hearing conducted under par. (e) or (f) any environmental impact assessment or environmental impact statement for the facility prepared under s. 1.11 and any environmental impact report prepared under s. 23.11 (5). The adequacy of the environmental impact assessment, environmental impact statement or environmental impact report is not subject to challenge at that hearing.

(h) *Determination of site appropriateness; location standards.* The department may not determine that the site of a proposed landfill is appropriate unless the site conforms with location standards promulgated by the department under s. 144.435 (1).

(i) *Determination of site appropriateness; need.* Except as provided in par. (im), the department may not determine that the site of a proposed landfill is appropriate unless the design capacity of that facility does not exceed the expected quantity of waste to be disposed of at that facility within 15 years after that facility begins operation. The department may not approve a feasibility report for a landfill unless the design capacity of that facility exceeds the expected quantity of waste to be disposed of at that facility within 10 years after that facility begins operation except that this condition does not apply to the expansion of an existing facility. The department shall consider the effect of recycling activities on the amount of solid waste that must be disposed of in determining the amount of waste expected to be disposed of at a

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landfill. The department shall consider all of the following in evaluating the need for the proposed facility:

1. An approximate service area for the proposed facility that encompasses all sources of waste that could potentially be disposed of at the facility. The service area shall be delineated based on the economics of waste collection, transportation and disposal.
2. The quantity of waste that could potentially be disposed of at the proposed facility and that is generated within the anticipated service area.
3. The remaining capacity of the following facilities, if those facilities are currently providing or are expected to provide solid waste disposal services for any sources of solid waste, located within the anticipated service area of the proposed facility:
  - a. Approved facilities, as defined under s. 144.441 (1) (a), including the potential for expansion of those facilities on contiguous property already owned or controlled by the applicant.
  - b. Nonapproved facilities, as defined under s. 144.442 (1) (c), that are environmentally sound. It is presumed that a nonapproved facility is not environmentally sound unless evidence to the contrary is produced.
  - c. Other proposed facilities for which feasibility reports are submitted and determined to be complete by the department.
4. The design capacity of the following facilities, if those facilities are currently providing or are expected to provide recycling or incineration services for any sources of solid waste located within the anticipated service area of the proposed facility:
  - a. Facilities for the recycling of solid waste or for the recovery of resources from solid waste that are licensed by the department.
  - b. Proposed facilities for the recycling of solid waste or for the recovery of resources from solid waste that have plans of operation which are approved by the department.
  - c. Solid waste incinerators licensed by the department.
  - d. Proposed solid waste incinerators that have plans of operation that are approved by the department or that have air pollution control permits under s. 144.391.
5. If the need for a proposed landfill that will be owned and operated by a municipality cannot be established under subs. 1 to 4, the extent to which the proposed facility is needed to replace other facilities owned and operated by that municipality at the time those facilities are projected to be closed in the plans of operation.
6. In evaluating the need for a proposed landfill, if, on or before January 1, 1991, a county prohibits, by ordinance, the disposal of the materials listed in s. 159.07 (3) in solid waste disposal facilities owned by the county, the department shall give a landfill proposed by that county preference over a facility in the same service area proposed by a private entity.

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(m) *Determination of need: exempt facilities.* Paragraph (i) does not apply to:

1. Any facility that is part of a prospecting or mining operation with a permit under s. 144.84 or 144.85.
2. A solid waste disposal facility designed exclusively for the disposal of waste generated by a pulp mill, paper mill, laundry or electric or process steam generating facility.

(j) *Determination of site appropriateness: land use.* The department may not determine that the site of a proposed landfill is appropriate if the landfill or the transportation of solid waste to the landfill will have an unreasonable, adverse effect on any of the following:

1. Residential property, including effects on the occupants and the value of the property.
2. Sensitive, nonresidential institutions such as schools, churches, hospitals or nursing homes.
3. The safety of public and private water supplies.
4. Open space or recreational land uses, both during operation of the landfill and after closure.
5. Natural areas that have any of the characteristics under s. 23.27 (2).
6. Scenic beauty.
7. Municipal service costs.
8. Projected land uses in the area of the landfill, as identified in any municipal master plan or official map.

(k) *Feasibility report prerequisite.* This subsection applies to a new or expanded landfill for which a feasibility report prior to construction is required under s. 144.44 (2) (a). This subsection does not apply to modifications of a landfill for which a feasibility report is not required or to facilities for which a feasibility report is not required prior to construction.

(l) *Consequence of site appropriateness determination.* The issuance of a favorable determination of site appropriateness constitutes approval of the landfill for the purpose stated but does not guarantee a favorable determination of feasibility under subs. (2) to (2r), plan approval under sub. (3) or licensure under sub. (4).

SECTION 50og. 144.44 (1k) of the statutes is created to read:

144.44 (1k) LOCAL COMMITTEE. (a) *Appointment of local committee.* If a contested case hearing is requested under sub. (1g) (f), the governing body of each affected municipality, except an affected municipality that is applying to construct and operate the landfill, may appoint members to a local committee, as follows:

1. A town, city or village in which all or part of a landfill is proposed to be located shall appoint 4 members, no more than 2 of whom are elected officials or municipal employees.
2. A county in which all or part of a facility is proposed to be located shall appoint 2 members.

**Vetoed  
in Part**

~~3. Any affected municipality, other than those specified under subd. 1 or 2, shall appoint one member.~~

~~(b) Local committee procedures. The local committee is subject to s. 144.44(7) (b) to (g).~~

~~(c) Payments to local committee. 1. Upon request of the local committee, the applicant shall pay \$20,000 to the local committee. The local committee may use the funds only for the costs of participation in the contested case hearing under sub. (1g) (f). The local committee shall return to the applicant the unused portion of the payment, if any, at the conclusion of the contested case hearing.~~

~~2. If the department determines that the site of the landfill is not appropriate, the applicant shall pay to the local committee, upon request, any local committee costs for participation in the contested case hearing that exceed the payment under subd. 1, but do not exceed an additional payment of \$20,000.~~

~~SECTION 50oi. 144.44 (1m) (b) of the statutes is amended to read:~~

~~144.44 (1m) (b) Application for local approvals required. Prior to constructing a solid waste disposal facility or hazardous waste facility, but no earlier than the issuance of the final determination of site appropriateness under sub. (1g), if applicable, the applicant shall submit a written request for the specification of all applicable local approvals to each affected municipality. Within 15 days after the receipt of a written request from the applicant, a municipality shall specify all local approvals for which applications are required or issue a statement that there are no applicable local approvals. Prior to constructing a solid waste disposal facility or hazardous waste facility, the applicant shall apply for each local approval required to construct the waste handling portion of the facility.~~

~~SECTION 50ok. 144.44 (1m) (d) of the statutes is amended to read:~~

~~144.44 (1m) (d) Waiver of local approvals. If a local approval precludes or inhibits the ability of the applicant to obtain data required to be submitted under sub. (1c) (a) or (1g) (a) or in a feasibility report or environmental impact report, the applicant may petition the department to waive the applicability of the local approval to the applicant. If a petition is received, the department shall promptly schedule a hearing on the matter and notify the local government of the hearing. If the department determines at the hearing that the local approval is unreasonable, the department shall waive the applicability of the local approval to the applicant.~~

**Vetoed  
in Part**

~~SECTION 50om. 144.44 (2) (f) 3 and 4 of the statutes are amended to read:~~

~~144.44 (2) (f) 3. A For a facility other than a landfill subject to sub. (1g), a description of how the proposed facility relates to any applicable county solid waste management plan approved under s. 144.437.~~

~~4. A For a facility other than a landfill subject to sub. (1g), a description of the advisory process under-~~

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taken by the applicant prior to submittal of the feasibility report to provide information to the public and affected municipalities and to solicit public opinion on the proposed facility.

~~SECTION 50on. 144.44 (2) (f) 6 of the statutes is repealed.~~

~~SECTION 50op. 144.44 (2) (f) 7 and 8 of the statutes are amended to read:~~

~~144.44 (2) (f) 7. A\* For a facility other than a landfill subject to sub. (1g), an analysis of alternatives to the land disposal of waste including waste reduction, reuse, recycling, composting and energy recovery.~~

~~8. A For a facility other than a landfill subject to sub. (1g), a description of any waste reduction incentives and recycling services to be instituted or provided with the proposed facility.~~

~~SECTION 50or. 144.44 (2) (i) to (L) and (m) (intro.) of the statutes are amended to read:~~

~~144.44 (2) (i). Preliminary determination if environmental impact statement is required. Immediately after the department determines that the feasibility report for a facility other than a landfill subject to sub. (1g) is complete, the department shall issue a preliminary determination on whether an environmental impact statement is required under s. 1.11 prior to the determination of feasibility. If the department determines after review of the feasibility report that a determination of feasibility cannot be made without an environmental impact statement or if the department intends to require an environmental impact report under s. 23.11 (5), the department shall notify the applicant in writing within the 60-day period of these decisions and shall commence the process required under s. 1.11 or 23.11 (5).~~

~~(j) Environmental impact statement process. If an environmental impact statement is required for a facility other than a landfill subject to sub. (1g), the department shall conduct the hearing required under s. 1.11 (2) (d) in an appropriate place it designates in a county, city, village or town which would be substantially affected by the operation of the proposed facility. The hearing on the environmental impact statement is not a contested case. The department shall issue its determination of the adequacy of the environmental impact statement within 30 days after the close of the hearing. Except as provided under s. 144.836, the department shall complete any environmental impact statement process required under s. 1.11 before proceeding with the feasibility report review process under par. (k) and subs. (2g) and (2r).~~

~~(k) Notification on feasibility report and preliminary environmental impact statement decisions. Immediately after the department issues a preliminary determination that an environmental impact statement is not required for a facility other than a landfill subject to sub. (1g) or, if it is required, immediately after the department issues the environmental impact statement, the department shall publish a class 1 notice under ch. 985 in the official newspaper designated~~

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under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give notice in the area of the proposed facility. The notice shall include a statement that the feasibility report and the environmental impact statement process are complete. The notice shall invite the submission of written comments by any person within 30 days after the notice for a solid waste disposal facility or within 45 days after the notice for a hazardous waste facility is published. The notice shall describe the methods by which a hearing may be requested under pars. (L) and (M). The department shall distribute copies of the notice to the persons specified under sub. (4m).

(L) *Request for an informational hearing.* Within 30 days after the notice under par. (K) is published for a solid waste disposal facility other than a landfill subject to sub. (Jg) or within 45 days after the notice under par. (K) is published for a hazardous waste facility, any county, city, village or town, the applicant or any 6 or more persons may file a written request for an informational hearing on the matter with the department. The request shall indicate the interests of the municipality or persons who file the request and state the reasons why the hearing is requested.

(M) *Request for treatment as a contested case.* (intro.) Within 30 days after the notice under par. (K) is published for a solid waste disposal facility other than a landfill subject to sub. (Jg) or within 45 days after the notice under par. (K) is published for a hazardous waste facility, any county, city, village or town, the applicant or any 6 or more persons may file a written request that the hearing under par. (L) be treated as a contested case, as provided under s. 227.42. A county, city, village or town, the applicant or any 6 or more persons have a right to have the hearing treated as a contested case only if:

SECTION 50pc. 144.44 (2) (n) 4 of the statutes is repealed.

SECTION 50pj. 144.44 (2) (nm) of the statutes, as affected by 1989 Wisconsin Acts 31 and 56, is repealed.

SECTION 50rc. 144.44 (2) (nr) of the statutes is repealed.

SECTION 50rcm. 144.44 (2) (nu) of the statutes is created to read:

144.44 (2) (nu) Maximum number of facilities. 1. Except as provided in subd. 2, the department may not issue a favorable determination of feasibility for a solid waste disposal facility in a 3rd class city if 2 or more approved facilities that are solid waste disposal facilities are in operation within the city in which the solid waste disposal facility is proposed to be located.

2. The prohibition in subd. 1 does not apply to an expansion of or addition to an existing approved facility that is a solid waste disposal facility by the owner or operator of the existing approved facility on property that is contiguous to the property on which the existing approved facility is located and that is owned

or under option to lease or purchase by the owner or operator of the existing approved facility.

SECTION 50cp. 144.44 (2) (om) of the statutes is repealed.

SECTION 50rd. 144.44 (2g) (bm) of the statutes is created to read:

144.44 (2g) (bm) *Nonapplicability: landfills.* Notwithstanding par. (a), this subsection does not apply to a landfill subject to sub. (Jg).

SECTION 50rf. 144.44 (2r) (bm) of the statutes is created to read:

144.44 (2r) (bm) *Nonapplicability: landfills.* Notwithstanding par. (a), this subsection does not apply to a landfill subject to sub. (Jg).

SECTION 50rg. 144.44 (2r) (e) of the statutes is repealed.

SECTION 50rig. 144.44 (2r) of the statutes is created to read:

144.44 (2r) INFORMATIONAL HEARING, LANDFILLS. (a) *Applicability.* This subsection applies to a landfill that is subject to sub. (Jg).

(b) *Notice.* Immediately after the department determines that the feasibility report is complete under sub. (2) (g), the department shall publish a class 1 notice under ch. 985 in the official newspaper designated under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give notice in the area of the proposed landfill. The notice shall include a statement that the feasibility report is complete and that the applicant will distribute copies of the feasibility report under sub. (2) (g). The notice shall invite the submission of written comments by any person within 30 days after the notice is published. The notice shall describe the hearing under par. (d). The department shall distribute copies of the notice to the persons specified under sub. (4m).

(c) *Request for informational hearing.* Within 30 days after the notice under par. (b) is published, any county, city, village or town, the applicant or any 6 or more persons may file a written request for an informational hearing on the matter with the department. The request shall indicate the interests of the municipality or persons who file the request and state the reasons why the hearing is requested.

(d) *Hearing.* If an informational hearing is requested under par. (b), or if the department determines that there is a substantial public interest in holding a hearing, the department shall conduct an informational hearing within 60 days after the expiration of the comment period under par. (b). The informational hearing is not a contested case, as defined in s. 227.01 (3).

(e) *Final determination of feasibility.* Within 60 days after adjournment of the hearing under par. (d), the department shall issue the final determination of feasibility for the landfill.

SECTION 50rk. 144.44 (3) (bh) of the statutes is created to read:

Vetoed  
in Part

144.44 (3) (bh) *Daily cover.* The department shall include in an approved plan of operation for a municipal waste landfill a requirement that the operator use foundry sand or shredder fluff for daily cover at part or all of the municipal waste landfill for the period specified in a request from a person operating a foundry or a scrap dealer in this state if the department receives the request prior to approving the plan of operation under par. (c) and if all of the following conditions are met:

1. The foundry operator or scrap dealer agrees to transport the foundry sand or shredder fluff to the landfill either daily or on another schedule acceptable to the municipal waste landfill operator.

2. The department approves the use of the foundry sand or shredder fluff for daily cover at the municipal waste landfill.

3. The municipal waste landfill operator is not contractually bound to obtain daily cover from another source.

4. The amount of daily cover to be provided by the requesting foundry operator or scrap dealer does not exceed the amount of daily cover required under the plan of operation for the municipal waste landfill less any daily cover provided by another foundry operator or scrap dealer.

SECTION 50rm. 144.44 (3) (c) of the statutes is amended to read:

144.44 (3) (c) *Approval; disapproval.* The department may not approve or disapprove a plan of operation until a favorable determination of feasibility has been issued for the facility. Upon the submission of a complete plan of operation, the department shall either approve or disapprove the plan in writing within 90 days or within 60 days after a favorable determination of feasibility is issued for the facility, whichever is later. The determination of the department shall be based upon compliance with par. (bh) and the standards established under s. 144.435 or, in the case of hazardous waste facilities, with the rules and standards established under s. 144.62. An approval may be conditioned upon any requirements necessary to comply with the standards. Any approval may be modified by the department upon application of the licensee if newly discovered information indicates that the modification would not inhibit compliance with the standards adopted under s. 144.435 or, if applicable, s. 144.62. No plan of operation for a solid or hazardous waste facility may be approved unless the applicant submits technical and financial information required under ss. 144.441 and 144.443.

SECTION 50ro. 144.44 (4e) of the statutes is created to read:

144.44 (4e) **DAILY COVER.** Within 12 months after receiving a request from a person operating a foundry or a scrap dealer in this state, the department shall modify the operating license issued under sub. (4) (a)

to a person operating a municipal waste landfill to require the operator to use foundry sand from the foundry or shredder fluff from the scrap dealer's operation as daily cover at part or all of the municipal waste landfill for a period specified in the request, if all of the conditions in sub. (3) (bh) are met.

SECTION 50roc. 144.44 (7) (h) of the statutes is created to read:

144.44 (7) (h) *Exemption from regulation; animal carcasses.* The department may not regulate under this chapter any animal carcass buried or disposed of, in accordance with ss. 95.35 and 95.50, on the property owned or operated by the owner of the carcass, if the owner is a farmer, as defined under s. 102.04 (3).

SECTION 50rog. 144.441 (7) (title), (a) and (b) of the statutes, as affected by 1989 Wisconsin Act 31, are amended to read:

144.441 (7) (title) **GROUNDWATER, SOLID WASTE CAPACITY AND WELL COMPENSATION FEES.** (a) (title) *Imposition of groundwater, solid waste capacity and well compensation fees on generators.* Except as provided under par. (f), a generator of solid or hazardous waste shall pay separate groundwater, solid waste capacity and well compensation fees for each ton or equivalent volume of solid or hazardous waste which is disposed of at a licensed solid or hazardous waste disposal facility. If a person arranges for collection or disposal services on behalf of one or more generators, that person shall pay the groundwater, solid waste capacity and well compensation fees to the licensed solid or hazardous waste disposal facility or to any intermediate hauler used to transfer wastes from collection points to a licensed facility. An intermediate hauler who receives groundwater, solid waste capacity and well compensation fees under this paragraph shall pay the fees to the licensed solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be calculated in the same manner as the calculation made for tonnage fees under sub. (3).

(b) *Collection.* The owner or operator of a licensed solid or hazardous waste disposal facility shall collect the groundwater, solid waste capacity and well compensation fees from the generator, a person who arranges for disposal on behalf of one or more generators or an intermediate hauler and shall pay to the department the amount of the fees required to be collected according to the amount of solid or hazardous waste received and disposed of at the facility during the preceding reporting period.

SECTION 50rom. 144.441 (7) (c) of the statutes, as affected by 1989 Wisconsin Act 31, is repealed and recreated to read:

144.441 (7) (c) *Amount of groundwater, solid waste capacity and well compensation fees.* The fees imposed under this subsection are as follows:

1. Except as provided in par. (d), the groundwater fee imposed under par. (a) is 10 cents per ton for solid waste or hazardous waste.

2. The well compensation fee imposed under par. (a) for solid waste or hazardous waste, excluding prospecting or mining waste, is one cent per ton.

3. In this subdivision, "solid waste disposal and incineration capacity" means the sum of the total capacity remaining at the beginning of a calendar year in all existing municipal waste landfills and the total solid waste incineration capacity of all existing incinerators during the expected life of the incinerators. The solid waste capacity fee imposed under par. (a) for solid waste disposed of after January 1, 1995, excluding hazardous waste and excluding solid waste generated in this state, shall be determined by the department at the beginning of each calendar year based on a comparison of the solid waste disposal and incineration capacity in this state and in the state in which the solid waste is generated. Except as provided in subd. 4, the solid waste capacity fee is as follows:

a. For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to the per capita capacity in this state, \$0.

b. For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to 75% but less than the per capita capacity in this state, \$2 per ton.

c. For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to 50% but less than 75% of the per capita capacity in this state, \$4 per ton.

d. For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to 25% but less than 50% of the per capita capacity in this state, \$6 per ton.

e. For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity less than 25% of the per capita capacity in this state, \$8 per ton.

4. If the solid waste capacity fee for solid waste generated in any state remains at the same level or increases in 2 consecutive calendar years, the fee under subd. 3 is doubled. The fee shall remain doubled until solid waste generated in that state qualifies for a lower fee under subd. 3.

SECTION 50ror. 144.441 (7) (e) to (h) and (i) (title) and 1 of the statutes, as affected by 1989 Wisconsin Act 31, are amended to read:

144.441 (7) (e) *In addition to other fees.* The groundwater, solid waste capacity and well compensation fees collected and paid under par. (b) are in addition to the tonnage fee imposed under sub. (3), the waste management base fee imposed under sub. (5), the environmental repair base fee imposed under s. 144.442 (2) and the environmental repair surcharge imposed under s. 144.442 (3).

(f) (title) *Exemption from groundwater, solid waste capacity and well compensation fees; certain materials used in operation of the facility.* Solid waste materials approved by the department for lining, daily cover or

capping or for constructing berms, dikes or roads within a solid waste disposal facility are not subject to the groundwater, solid waste capacity and well compensation fees imposed under par. (a), except that foundry sands or shredder fluff approved for use under s. 144.44 (3) (bh) or (4e) are subject to groundwater and well compensation fees.

(g) *Reporting period.* The reporting period under this subsection is the same as the reporting period under sub. (3). The owner or operator of any licensed solid or hazardous waste disposal facility shall pay groundwater, solid waste capacity and well compensation fees required to be collected under par. (b) at the same time as any tonnage fees under sub. (3) and the waste management base fee under sub. (5) are paid.

(h) (title) *Use of groundwater, solid waste capacity and well compensation fees.* The groundwater fees collected under par. (b) shall be credited to the environmental fund for groundwater management. The well compensation and solid waste capacity fees collected under par. (b) shall be credited to the environmental fund for environmental repair.

(i) (title) *Failure to pay groundwater, solid waste capacity and well compensation fees.* 1. If a person required under par. (a) to pay groundwater, solid waste capacity and well compensation fees to a licensed solid or hazardous waste disposal facility fails to pay the fees, the owner or operator of the licensed solid or hazardous waste disposal facility shall submit to the department with the payment required under par. (b) an affidavit stating facts sufficient to show the person's failure to comply with par. (a).

SECTION 50ros. 144.4412 of the statutes is created to read:

**144.4412 Incinerators; solid waste capacity fee.** (1) DEFINITION. In this section:

(a) "Municipal solid waste treatment facility" means a solid waste facility that is designed primarily to burn or convert into fuel solid waste collected from residential or commercial sources and that is owned or operated by a municipality or county or a private entity that offers incineration or conversion services to the public, a county or a municipality.

(b) "Solid waste disposal and incineration capacity" means the sum of the total capacity remaining at the beginning of a calendar year in all existing municipal waste landfills and the total solid waste incineration capacity of all existing incinerators during the expected life of the incinerators.

(2) COLLECTION. The owner or operator of an incinerator with an operating permit or license that is approved under s. 144.391 or 144.44 (4) shall pay to the department the amount of the solid waste capacity fee required to be collected according to the amount of solid waste burned during the previous calendar year.

(3) AMOUNT OF SOLID WASTE CAPACITY FEE. The solid waste capacity fee imposed under sub. (2) for solid waste burned after January 1, 1995, shall be determined by the department at the beginning of

each calendar year based on a comparison of the solid waste disposal and incineration capacity in this state and in the state in which the solid waste is generated. Except as provided in sub. (4), the solid waste capacity fee is as follows:

(a) For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to the per capita capacity in this state, \$0.

(b) For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to 75% but less than the per capita capacity in this state, \$2 per ton.

(c) For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to 50% but less than 75% of the per capita capacity in this state, \$4 per ton.

(d) For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity greater than or equal to 25% but less than 50% of the per capita capacity in this state, \$6 per ton.

(e) For solid waste generated in a state which has a per capita solid waste disposal and incineration capacity less than 25% of the per capita capacity in this state, \$8 per ton.

(4) FEE DOUBLED. If the solid waste capacity fee for solid waste generated in any state remains at the same level or increases in 2 consecutive calendar years, the fee under sub. (3) is doubled. The fee shall remain doubled until solid waste generated in that state qualifies for a lower fee under sub. (3).

(5) EXEMPTIONS. The solid waste capacity fee under sub. (3) or (4) does not apply to any of the following:

(a) Hazardous waste.

(b) Solid waste generated in this state.

(c) Solid waste generated in another state if the solid waste is converted into fuel or burned at a municipal solid waste treatment facility with an operating permit or license that is approved under s. 144.391 or 144.44 (4) prior to the effective date of this paragraph .... [revisor inserts date], and the solid waste is delivered to the municipal solid waste treatment facility pursuant to a contract in effect 2 years after the effective date of this paragraph .... [revisor inserts date].

(6) USE OF SOLID WASTE CAPACITY FEE. The fees collected under sub. (2) shall be credited to the environmental fund.

SECTION 50rosm. 144.4414 of the statutes is created to read:

**144.4414 Solid waste capacity fees; department determinations.** Beginning on January 1, 1991, and annually thereafter, the department shall determine the solid waste disposal and incineration capacity, as defined in s. 144.4412 (1) (b), of this state and each adjacent state. The department shall inform the owner or operator of each solid waste disposal facility and each incinerator in this state of the amount of the

solid waste capacity fee under ss. 144.441 (7) and 144.4412 for solid waste generated in each adjacent state, commencing on January 1, 1995, based on that solid waste disposal and incineration capacity determination.

SECTION 50rot. 144.442 (1m) (e) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

144.442 (1m) (e) *In addition to other fees.* The environmental repair fee collected and paid under par. (b) is in addition to the base fee imposed under sub. (2), the surcharge imposed under sub. (3), the tonnage fee imposed under s. 144.441 (3), the waste management base fee imposed under s. 144.441 (5) and the groundwater, solid waste capacity and well compensation fees imposed under s. 144.441 (7).

SECTION 50rs. 144.442 (1m) (f) of the statutes is amended to read:

144.442 (1m) (f) *Exemption from environmental repair fee; certain materials used in operation of the facility.* Solid waste materials approved by the department for lining, daily cover or capping or for constructing berms, dikes or roads within a solid waste disposal facility are not subject to the environmental repair fee imposed under par. (a), except that foundry sands or shredder fluff approved for use under s. 144.44 (3) (bh) or (4e) are subject to the environmental repair fee.

~~SECTION 50s. 144.443 (1) (d) of the statutes is amended to read:~~

~~144.443 (1) (d) "Public utility" has the meaning specified under means a public utility as defined in s. 196.01 (5) or an electric cooperative organized and operating on a nonprofit basis under ch. 185.~~

~~SECTION 50tc. 144.445 (3) (a) of the statutes is amended to read:~~

~~144.445 (3) (a) "Applicant" means a person applying for a license for seeking to construct a facility or the owner or operator of a facility.~~

~~SECTION 50tg. 144.445 (7n) (a) of the statutes is amended to read:~~

~~144.445 (7n) (a) *Agreement to add.* Upon the written agreement of all parties to a negotiation and arbitration proceeding commenced under this section, a municipality which does not qualify as an affected municipality under s. 144.43 (1) may be added as a party to the proceeding. Each municipality added under this section shall appoint one member to the local committee.~~

~~SECTION 50tj. 144.445 (8) (a) 3 of the statutes is created to read:~~

~~144.445 (8) (a) 3. The appropriateness of the location of the proposed facility, if the proposed facility is a landfill.~~

~~SECTION 50tl. 144.445 (8) (b) 7 of the statutes is amended to read:~~

Vetoed  
in Part

Vetoed  
in Part

~~144.445 (8) (b) 7. The applicability or nonapplicability of any preexisting local approvals, except if the proposed facility is a landfill, those preexisting local approvals that relate to the appropriateness of the location of the proposed facility.~~

~~SECTION 50n. 144.445 (9) (f) of the statutes is amended to read:~~

~~144.445 (9) (f) *Submission of certain items to the department.* Any item proposed to be included in a negotiated agreement which affects an applicant's responsibilities under an approved feasibility report or plan of operation may shall be submitted to the department for consideration. An item may be submitted to the department under this paragraph after agreement on the item is reached by the applicant and the local committee either during or at the conclusion of negotiation. The department shall approve or reject items submitted under this paragraph within 2 weeks after receipt of the item. The department shall reject those items which would make the applicant's responsibilities less stringent than required under the approved feasibility report or plan of operation. The department shall provide written reasons for the rejection. Items which are rejected may be revised and resubmitted. The department may incorporate all items which are not rejected under this paragraph into the approved feasibility report or the plan of operation if the items are included in the negotiated agreement approved under par. (k). The department shall inform the applicant, the local committee and the board of its decisions under this paragraph.~~

~~SECTION 50p. 144.445 (9) (k) of the statutes is amended to read:~~

~~144.445 (9) (k) *Approval.* If the local committee includes members from any town, city or village where all or a portion of the facility is to be located and if the negotiated agreement is approved by resolution by each all of the appropriate governing bodies, the negotiated agreement is binding on all and may be enforced by each of the participating municipalities but if, If the negotiated agreement is not approved by any all of the appropriate governing body bodies, the negotiated agreement is void. If the local committee does not include members from any town, city or village where all or a portion of the facility is to be located and if the negotiated agreement is approved by resolution by all of the appropriate governing bodies, the agreement is binding on all of the participating municipalities but if the negotiated agreement is not approved by all of the appropriate governing bodies, the negotiated agreement is void.~~

~~SECTION 50r. 144.445 (10) (c) of the statutes is amended to read:~~

~~144.445 (10) (c) *Decision concerning arbitration.* Within 45 30 days after receipt of a petition to initiate arbitration, the board shall issue a decision concerning the petition and notify the applicant and the local committee of that decision.~~

Vetoed  
in Part

~~SECTION 50s. 144.445 (10) (m) of the statutes is amended to read:~~

~~144.445 (10) (m) *Public documents.* The After both final offers are submitted to the board, the final offers are become public documents and the board shall make copies available to the public.~~

~~SECTION 50u. 144.445 (10) (o) of the statutes is amended to read:~~

~~144.445 (10) (o) *Public meeting.* Within 30 days after the last day for submitting final offers, the board shall conduct a public meeting in a place reasonably close to the location of the facility to provide an opportunity for the applicant and the local committee to explain or present supporting arguments for their final offers. The public meeting is not a contested case, as defined in s. 227.01 (3). The board may conduct additional meetings with the applicant and the local committee as necessary to prepare its arbitration award. The board may administer oaths, issue summonses under s. 788.06 and direct the taking of depositions under s. 788.07.~~

~~SECTION 50tv. 144.445 (12) (a) 1 and (b) 1 of the statutes are repealed.~~

~~SECTION 50tw. 144.445 (12) (a) 2 of the statutes is renumbered 144.445 (12) (a).~~

~~SECTION 50ty. 144.445 (12) (b) 2 of the statutes is amended to read:~~

~~144.445 (12) (b) 2. Except as provided under subd. 1 and par. (c), only subs. (3) and (5) (a) and (b) apply to a hazardous waste facility which is in existence on May 7, 1982, which has a license, an interim license or a variance under s. 144.64 or the resource conservation and recovery act and which complies with all local approvals applicable to the facility on May 7, 1982.~~

~~SECTION 50u. 144.446 of the statutes is amended to read:~~

~~**144.446 Landfill official liability.** (1) DEFINITION. As used in this section, "landfill official" means any officer, official, agent or employe of the state, a political corporation, governmental subdivision or public agency engaged in the planning, management, operation or approval of a solid or hazardous waste disposal facility and any member of a local committee organized under s. 144.445 (7).~~

~~(2) EXEMPTION FROM LIABILITY. A landfill official is immune from not liable for civil prosecution for damages as a result of any good faith actions taken within the scope of his or her official duties under this subchapter.~~

~~SECTION 50um. 144.453 of the statutes is created to read:~~

~~**144.453 Disposal and treatment records.** (1) SUBMISSION OF INFORMATION. The owner or operator of each solid waste treatment facility at which solid waste is converted into fuel or burned and of each solid waste disposal facility shall annually submit to the department a report containing all of the following information:~~

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- (a) The name of the owner of the facility.
- (b) The location of the facility.
- (c) For a solid waste disposal facility, the remaining capacity available for disposal.
- (d) A list of all licensed haulers transporting waste to the facility for disposal or treatment in the previous year.
- (e) A list of the states of origin of solid waste disposed of or treated at the facility in the previous year and the amount, by weight, of that solid waste originating in each state.

(2) MAINTENANCE OF RECORDS. Except as provided in s. 144.433 (2) (a) 2, the department shall separately maintain as a public record, for each solid waste facility, the reports required by sub. (1).

SECTION 50v. 144.455 of the statutes is created to read:

**144.455 Dump closure cost-sharing grants.** (1) DEFINITIONS. In this section:

- (a) "Nonapproved facility" has the meaning given in s. 144.441 (1) (c).
- (b) "Political subdivision" means a city, village, town, county or town sanitary district.

(2) APPLICATION. A political subdivision that closes a nonapproved facility which it owns may apply to the department for a cost-sharing grant. The application shall include information requested by the department. The department may establish a deadline for applying for a cost-sharing grant.

(3) APPROVAL. The department shall approve a grant only for closure costs that it determines are reasonable and necessary. Closure costs do not include the costs of taking remedial action. The department may approve a cost-sharing grant only if the nonapproved facility is closed under the department's rules in effect on the effective date of this subsection .... [revisor inserts date], and if the closure is approved by the department.

(4) COST-SHARING GRANT AMOUNT. (a) Except as provided in par. (b), the department shall approve a cost-sharing grant equal to 50% of the amount by which the reasonable and necessary costs of closing the nonapproved facility exceed an amount equal to \$10 times the population of the political subdivision, based on the most recent population estimates by the department of administration under s. 16.96. If a political subdivision closes more than one nonapproved facility, the reasonable and necessary costs incurred by the political subdivision in closing all of the nonapproved facilities shall be combined to determine the amount of the grant under this subsection. If 2 or more political subdivisions are joint owners of a nonapproved facility which is closed, the department shall use the total population of the political subdivisions in determining the amount of the grant under this subsection.

(b) A political subdivision may not receive more than \$400,000 under this section. The department

shall prorate grant awards if necessary to prevent the total amount of payments under sub. (5) from exceeding \$20,000,000 over 10 years.

(5) PAYMENT OF GRANT. The department shall make grant payments annually over a 10-year period. Each grant payment shall equal 10% of the total grant to a political subdivision.

(6) APPLICABILITY. This section applies to any non-approved facility that is closed by a political subdivision after January 1, 1988.

SECTION 51. 144.48 of the statutes is renumbered 159.15.

~~SECTION 51m. 144.505 of the statutes is created to read:~~

~~144.505 Council on used oil. (1) The council on used oil shall meet at least quarterly.~~

~~(2) The council on used oil shall obtain the input of the oil industry concerning the management of used oil, including its input concerning any proposed legislation or administrative rules relating to used oil, and the effectiveness of or needed modifications to existing legislation or administrative rules relating to used oil.~~

SECTION 52. 144.792 (intro.) and (1) to (4) of the statutes are renumbered 159.05 (intro.) and (1) to (4) and amended to read:

**159.05 (title) State solid waste reduction, reuse, recycling, composting and resource recovery policy.** (intro.) The following are declared to be policies of the state concerning the reduction of the amount of solid waste generated, the reuse, recycling and composting of solid waste and resource recovery from solid waste:

(1) That maximum solid waste reduction, reuse, recycling, composting and resource recovery is in the best interest of the state in order to protect public health, to protect the quality of the natural environment and to conserve resources and energy.

(2) That solid waste reduction, reuse, recycling, composting and resource recovery projects should be encouraged in furtherance of these goals.

(3) That encouragement and support should be given to individuals, collectors, handlers and operators of waste facilities to separate solid waste at the source, in processing or at the time of disposal in order to facilitate reuse, recycling, composting or resource recovery.

(4) That research, development and innovation in the design, management and operation of solid waste reduction, reuse, recycling, composting and resource recovery systems and operations are necessary and should be encouraged in order to improve the processes, to lower operating costs and to provide incentives for the use of these systems and operations and their products.

SECTION 53. 144.792 (5) and (6) of the statutes are repealed.

SECTION 54. 144.792 (7) of the statutes is renumbered 159.05 (6) and amended to read:

Vetoed  
in Part

159.05 (6) That solid waste reduction, reuse, recycling, composting and resource recovery efforts in this state should be planned and coordinated in order to maximize beneficial results while minimizing duplication and inefficiency ~~and~~.

(7) That to achieve these the goals in this policy statement the legislature recognizes the necessity of the state to occupy a regulatory role in this field and the necessity to give municipalities and counties certain powers to adopt waste flow control ordinances in order to require the use of recycling and resource recovery facilities.

SECTION 55. 144.792 (8) to (11) of the statutes are renumbered 159.05 (8) to (11) and amended to read:

159.05 (8) That the powers enumerated under s. ~~144.794~~ 159.13 constitute proper powers consistent with uniform state policies concerning solid waste reduction, reuse, recycling, composting and resource recovery from solid waste; these powers are necessary for the safe, beneficial, economical and lawful management, ~~disposal and reuse~~ of solid waste; and these powers are necessary to accomplish or facilitate these uniform state policies by encouraging the financing, acquisition, construction, improvement, operation, maintenance and ownership of recycling and resource recovery facilities. The powers enumerated under s. ~~144.794~~ 159.13 constitute proper powers consistent with essential and legitimate governmental functions; and these powers are to be utilized in providing for the health, safety and welfare of and providing services and benefits for inhabitants of municipalities, counties and this state.

(9) That the state policies declared under this section and the standards, criteria, requirements and procedures established under s. ~~144.794~~ 159.13 ensure that a municipality or county exercising powers under s. ~~144.794~~ 159.13 acts in a manner consistent with uniform state policies and acts as an arm of the state for the public good.

(10) That solid waste reduction, reuse, recycling, composting and resource recovery systems and operations are preferable to land disposal.

(11) That developers and users of land disposal facilities should not become overly committed to land disposal because of the excessively long useful life of a facility or the excessive aggregate capacity of land disposal facilities so that reuse, recycling, composting and resource recovery systems and operations may be implemented rapidly without excessive disruption.

SECTION 56. 144.792 (12) of the statutes is renumbered 159.05 (12).

SECTION 57. 144.794 (title) and (1) (intro.) and (b) to (e) of the statutes are renumbered 159.13 (title) and (1) (intro.) and (b) to (e), and 159.13 (1) (intro.), as renumbered, is amended to read:

159.13 (1) DEFINITIONS. (intro.) ~~As used in~~ In this section ~~and s. 144.792:~~

SECTION 57g. 144.794 (1) (f) of the statutes, as affected by 1989 Wisconsin Act 56, is renumbered 159.13 (1) (f).

SECTION 57j. 144.794 (1) (g) to (i) of the statutes are renumbered 159.13 (1) (g) to (i), and 159.13 (1) (h), as renumbered, is amended to read:

159.13 (1) (h) "Recycling" means the transfer, transporting, processing, marketing and conversion of solid wastes into usable materials, or products or energy and includes the stockpiling and disposal of nonusable portions of solid wastes, but does not include the collection of solid wastes.

SECTION 58. 144.794 (1) (j) and (k) of the statutes are repealed.

SECTION 59. 144.794 (1) (L) and (m) of the statutes are renumbered 159.01 (13) and (14).

SECTION 60. 144.794 (1) (n) and (o) of the statutes are repealed.

SECTION 61. 144.794 (2) to (4) and (5) (intro.) and (a) to (d) of the statutes are renumbered 159.13 (2) to (4) and (5) (intro.) and (a) to (d), and 159.13 (2) (d) and (3) (d), as renumbered, are amended to read:

159.13 (2) (d) The facility is constructed, operated, maintained, expanded, modified and closed in compliance with this chapter and ch. 144 and all necessary permits, licenses and approvals required by the department are obtained.

(3) (d) The facility is constructed, operated, maintained, expanded, modified and closed in compliance with this chapter and ch. 144 and all necessary permits, licenses and approvals required by the department are obtained.

SECTION 62. 144.794 (5) (e) of the statutes, as affected by 1989 Wisconsin Acts 31 and 56, is renumbered 159.13 (5) (e).

SECTION 63. 144.794 (5) (f) to (h) and (6) to (17) of the statutes are renumbered 159.13 (5) (f) to (h) and (6) to (17), and 159.13 (10) (intro.), as renumbered, is amended to read:

159.13 (10) MUNICIPAL WASTE FLOW CONTROL ORDINANCE. (intro.) Except as provided under sub. (4), a municipality may adopt a municipal waste flow control ordinance if the municipality adopted an appropriate initial intent resolution under sub. (6), if the municipality or, if the municipality enters into an agreement under sub. (3), the responsible municipality submitted the necessary comprehensive facility project description report required under sub. (7), if the municipality issued a determination of best public interest utilizing criteria under sub. (8) after conducting the hearing required under sub. (9) and if the facility complies with this chapter and ch. 144 and all permits, licenses and approvals required by the department are obtained. The municipal waste flow control ordinance shall include:

SECTION 64. 144.795 of the statutes, as affected by 1989 Wisconsin Act 31, is repealed.

SECTION 65. 144.796 of the statutes is repealed.

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SECTION 65p. 144.7965 (title) of the statutes, as created by 1987 Wisconsin Act 296, is repealed.

SECTION 65q. 144.7965 (1) (title) of the statutes, as created by 1987 Wisconsin Act 296, is repealed.

SECTION 66b. 144.7965 (1) of the statutes, as created by 1987 Wisconsin Act 296, is renumbered 159.01 (17) and amended to read:

159.01 (17) ~~In this section, "yard~~ "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

SECTION 66e. 144.7965 (2) of the statutes, as created by 1987 Wisconsin Act 296, is renumbered 159.07 (2) and amended to read:

159.07 (2) (title) YARD WASTE. No Beginning on January 3, 1993, no person may dispose of yard waste in a solid waste disposal facility or burn yard waste without energy recovery in a solid waste facility in this state.

SECTION 67. 144.797 of the statutes is repealed.

SECTION 68. 144.798 of the statutes is renumbered 159.17, and 159.17 (1) (d), as renumbered, is amended to read:

159.17 (1) (d) "Waste tire" has the meaning given under s. 84.078 (1) (b).

SECTION 69b. 144.799 (title) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 159.25 (title) and amended to read:

**159.25 (title) Waste reduction and recycling demonstration grants.**

SECTION 70. 144.799 (1) of the statutes is renumbered 159.25 (1).

SECTION 71b. 144.799 (2) and (3) (title), (a) and (b) of the statutes, as affected by 1989 Wisconsin Act 31, are renumbered 159.25 (2) and (3) (title), (a) and (b) and amended to read:

159.25 (2) DEPARTMENT POWERS AND DUTIES. The department shall develop, implement and administer a demonstration ~~and development~~ grant program. The department shall develop evaluation criteria for reporting on and evaluating this program including the number of demonstration grants ~~and development grants~~ awarded, the extent to which the grant moneys are used as required under this section and the impact of activities financed with these grants on the amount of solid waste disposed of at land disposal facilities.

(3) (title) DEMONSTRATION GRANTS; ELIGIBILITY; APPLICATIONS. (a) A municipality, public entity, private business or nonprofit organization which meets eligibility requirements established by the department may apply for a demonstration grant for the purpose of implementing innovative waste reduction and recycling activities ~~or a development grant for the purpose of implementing demonstrated waste reduction and recycling activities.~~

(b) An application for a demonstration grant ~~or a development grant~~ shall contain the information, shall be in a form and shall be submitted in the manner required by the department.

SECTION 72. 144.799 (3) (c) and (d) of the statutes, as affected by 1989 Wisconsin Act 31, are repealed.

SECTION 73b. 144.799 (4) (title) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 159.25 (4) (title) and amended to read:

159.25 (4) (title) DEMONSTRATION GRANTS; CRITERIA.

SECTION 73d. 144.799 (4) (a) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 159.25 (4) (intro.) and amended to read:

159.25 (4) (intro.) The department shall develop by rule criteria for determining eligibility, for approving, for determining the amount of and for establishing priorities for distributing demonstration grants ~~and development grants~~. These criteria shall include:

SECTION 73f. 144.799 (4) (b) (intro.) of the statutes, as created by 1989 Wisconsin Act 31, is repealed.

SECTION 73h. 144.799 (4) (b) 1 to 4 of the statutes, as affected by 1989 Wisconsin Act 31, are renumbered 159.25 (4) (a) to (d), and 159.25 (4) (a), as renumbered, is amended to read:

159.25 (4) (a) The weight or equivalent volume of solid waste which is anticipated to be diverted from disposal at land disposal facilities through the implementation of waste reduction and recycling activities. This weight or equivalent volume shall not include solid waste diverted from waste reduction or recycling facilities or activities in existence or for which a feasibility report is submitted on or before the date of application for the demonstration grant ~~or development grant~~.

SECTION 73j. 144.799 (4) (b) 5 and (c) (intro.) of the statutes, as created by 1989 Wisconsin Act 31, are repealed.

SECTION 73L. 144.799 (4) (c) 1 to 3 of the statutes, as affected by 1989 Wisconsin Act 31, are renumbered 159.25 (4) (e) to (g), and 159.25 (4) (g), as renumbered, is amended to read:

159.25 (4) (g) Consideration of the application or implementation of innovative technologies in a project which employs a proven technology in a waste reduction or recycling activity. Notwithstanding ~~subd. 2 par. (f)~~, a project which employs a proven technology may receive grant moneys for that portion of the project which implements innovative technologies and applications.

SECTION 73n. 144.799 (4) (d) of the statutes, as created by 1989 Wisconsin Act 31, is repealed.

SECTION 73p. 144.799 (5) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 159.25 (5) and amended to read:

159.25 (5) (title) DEMONSTRATION GRANTS; FINANCIAL ASSISTANCE. (a) The department may enter into



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agreements with eligible applicants to make demonstration grants ~~and development grants~~ from the appropriation under s. 20.370 (4) ~~(ee) (ct) and, if approved under s. 14.065, from the appropriation under s. 20.595 (1) (md).~~

(b) An eligible applicant for a demonstration grant ~~or a development grant~~ may receive a grant based upon the weight or equivalent volume of solid waste anticipated to be diverted from disposal at land disposal facilities but a demonstration grant ~~may not exceed 50% of the actual eligible costs or \$75,000, whichever is less, and a development grant may not exceed 50% of the actual eligible costs or \$150,000, whichever is less.~~ An applicant's required contribution for a demonstration grant may consist of funding or an in-kind contribution. The department may award up to 75% of the grant to the applicant upon approval. The department shall award the remainder of the grant only if the waste reduction and recycling activities are implemented and approved by the department. An applicant may receive only one demonstration grant ~~and one development grant.~~

SECTION 74. 144.799 (6) of the statutes is renumbered 159.25 (6).

SECTION 76. Chapter 159 of the statutes is created to read:

CHAPTER 159  
SOLID WASTE  
SUBCHAPTER I  
GENERAL

**159.01 Definitions.** Except as otherwise provided, in this chapter:

(1) "Department" means the department of natural resources.

(2) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

(a) Is designed for serving food or beverages.

(b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(3) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.

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

(5) "Out-of-state unit" means a general purpose local governmental unit located in a state other than Wisconsin.

(5m) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in s. 66.299 (1) (a), state agency or authority or federal agency.

(6) "Plastic container" means a plastic container, as defined in s. 100.33 (1) (c), that is required to be labeled under s. 100.33 (2).

(7) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 144.61 (5), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 144.44 (7) (a) 1.

(8) "Region" means the area within the boundaries of a responsible unit or an out-of-state unit.

(8m) "Resource recovery" means the conversion of solid waste into fuel or energy.

(9) "Responsible unit" means a municipality, county or solid waste management system under s. 59.07 (135), that is designated under s. 159.09 (1).

(10) "Solid waste" has the meaning given in s. 144.01 (15).

(11) "Solid waste disposal" has the meaning given in s. 144.43 (4r).

(12) "Solid waste facility" has the meaning given in s. 144.43 (5).

(15) "Solid waste storage" has the meaning given in s. 144.43 (7g).

(16) "Solid waste treatment" has the meaning given in s. 144.43 (7r).

**159.03 Departmental duties and powers.** (1) DUTIES. The department shall do all of the following:

(a) Promulgate rules necessary to implement this chapter.

(am) Promulgate rules concerning the imposition, under s. 66.35, of fees by municipalities on operators of medical waste incinerators.

(b) Establish and modify state priorities for the development of markets for materials derived from postconsumer waste. In establishing and modifying the priorities, the department shall consult with the council on recycling. The priorities shall give preference to market development efforts that do any of the following:

1. Strengthen or expand an existing market for a material for which the demand is insufficient to utilize the projected supply or for which the price is low relative to the costs of separating the material from solid waste, processing the material or transporting the material to the market.

2. Create a new market for a material that provides a higher price for the material or a lower separation, processing or transportation cost than existing markets.

3. Use solid waste that is not separated for recycling as a substitute for nonrenewable fuels to generate steam or electricity if done in a state-approved program that protects the public health and welfare and the environment.

(c) Coordinate research, technical assistance and education programs under this chapter with related activities of the university of Wisconsin system.

(2) POWERS. The department may do any of the following:

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(a) Hold hearings relating to any aspect of the administration of this chapter and, in connection therewith, compel the attendance of witnesses and the production of evidence.

(b) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

159.05 (4m) That the initiatives of current recyclers which facilitate reuse and recycling through separation, collection and processing of substantial volumes of scrap and waste material, reducing the amount of mixed solid waste that is disposed of in landfills or burned without energy recovery in incinerators, should be encouraged.

(4s) That the burning of solid waste with energy recovery as a substitute for the burning of nonrenewable fuels, such as coal, to generate steam or electricity is in the public interest and should be encouraged, if done in a state-approved program that protects the public health and welfare and the environment.

(5) That the implementation of solid waste reduction, reuse, recycling, composting and resource recovery systems and operations requires the involvement and cooperation of all persons and entities comprising this state's society, including individuals, state and local governments, schools, private organizations and businesses. To achieve this involvement and cooperation, state government should rely to the maximum extent feasible on technical and financial assistance, education and managerial practices to implement these policies. Necessary regulations should be developed with maximum flexibility.

(12) (g) The burning of solid waste without energy recovery.

## SUBCHAPTER II

### SOLID WASTE REDUCTION, RECOVERY AND RECYCLING

**159.07 Prohibitions on land disposal and incineration.** (1m) BATTERIES, MAJOR APPLIANCES AND OIL. Beginning on January 1, 1991, no person may:

(a) Dispose of a lead acid battery or a major appliance in a solid waste disposal facility or burn a lead acid battery or a major appliance in a solid waste treatment facility in this state.

(b) Dispose of waste oil in a solid waste disposal facility or burn waste oil without energy recovery in a solid waste treatment facility in this state.

(3) GENERAL DISPOSAL RESTRICTIONS. Beginning on January 1, 1995, no person may dispose of in a solid waste disposal facility or burn without energy recovery in a solid waste treatment facility in this state any of the following:

(a) An aluminum container.

(b) Corrugated paper or other container board.

(c) Foam polystyrene packaging.

(d) A glass container.

(e) A magazine or other material printed on similar paper.

(f) A newspaper or other material printed on newsprint.

(g) Office paper.

(h) A plastic container.

(i) A steel container.

(j) A waste tire, as defined in s. 84.078 (1) (b).

(k) A container for carbonated or malt beverages that is primarily made of a combination of steel and aluminum.

(4) GENERAL INCINERATION RESTRICTIONS. Beginning on January 1, 1995, no person may convert into fuel or burn with energy recovery at a solid waste treatment facility in this state any of the following:

(a) An aluminum container.

(b) Corrugated paper or other container board.

(c) Foam polystyrene packaging.

(d) A glass container.

(f) A magazine or other material printed on similar paper.

(g) A newspaper or other material printed on newsprint.

(h) Office paper.

(i) A plastic container.

(j) A steel container.

(k) A container for carbonated or malt beverages that is primarily made of a combination of steel and aluminum.

~~(5) OTHER RESTRICTIONS. If the department determines that a type of paper not specified in sub. (3) can be economically recycled or the prohibition is necessary to protect the public health or welfare, the department may, by rule, prohibit the disposal in a solid waste disposal facility or the burning with or without energy recovery in a solid waste treatment facility in this state of that type of paper. A rule promulgated under this subsection may not take effect before January 1, 1997.~~

(7) EXCEPTIONS. (a) The prohibitions in subs. (3) to (5) do not apply with respect to solid waste, except medical waste, as defined in par. (c) 1. cg, that is generated in a region that has an effective recycling program, as determined under s. 159.11, and, if the region is not in this state, the region is located in a state that has an effective siting program, as determined under s. 159.12.

(b) 1. In this paragraph:

a. "Current service area" means the area served by a solid waste treatment facility under a contract that is in effect on January 1, 1993, and has a term of at least one year.

b. "Operating solid waste treatment facility" means a solid waste treatment facility that has an operating permit or license issued under s. 144.391 or 144.44 (4) or that has a capacity of over 20 tons of waste per hour and is exempted from licensing prior to the effective date of this subdivision .... [revisor inserts date], except

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for a medical waste incinerator, as defined in par. (c) 1. cr.

2. A prohibition in sub. (3) (b), (c), (e), (f), (g), (h) or (j) or (4) (b), (c), (f), (g), (h) or (i) does not apply to a person who converts into fuel or burns at an operating solid waste treatment facility a type of material identified in one of those paragraphs that was converted into fuel or burned at the operating solid waste treatment facility during the month prior to the month in which the effective date of this subdivision .... [revisor inserts date] falls, and either is generated in the operating solid waste treatment facility's current service area or is generated by the owner of the operating solid waste treatment facility.

(bg) The prohibitions in subs. (1) to (5) do not apply to a person who burns solid waste at a facility that uses solid waste as a supplemental fuel if less than 30% of heat input to the facility is derived from the solid waste burned as supplemental fuel.

(c) 1. In this paragraph:

a. "Clinic" means a place, other than a residence, that is used primarily for the provision of nursing, medical, podiatric, dental, chiropractic, optometric or veterinary care and treatment.

b. "Hospital" has the meaning given in s. 50.33 (2).

c. "Infectious waste" means solid waste that contains pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.

cg. "Medical waste" means containers, packages and materials identified under sub. (3), (4) or (5) that contain infectious waste or that are from a treatment area and are mixed with infectious waste.

cr. "Medical waste incinerator" means a solid waste treatment facility that primarily burns infectious waste and other waste that contains or may be mixed with infectious waste.

d. "Nursing home" has the meaning given in s. 50.01 (3).

e. "Treatment area" means a room or area in a hospital or clinic the primary use of which is to provide emergency care, diagnosis or radiological treatment or to perform surgical procedures; an obstetrics delivery room in a hospital; a room for a patient in a hospital; a room for a resident in a nursing home; or a room or area in a hospital, clinic or nursing home, identified by the department by rule, in which infectious waste may be generated.

2. The prohibitions in subs. (3) to (5) do not apply with respect to any of the following:

a. The burning of medical waste in a medical waste incinerator or other incinerator approved by the department to accept and burn medical waste, except as provided in subd. 3.

b. The disposal of, in a solid waste disposal facility, a container, package or material identified under sub. (3), (4) or (5) that contained infectious waste or that is from a treatment area and is mixed with infectious

waste generated in the treatment area, if the container, package or material has been treated, pursuant to standards established under ss. 144.43 to 144.47, to render the infectious waste noninfectious.

3. A person may not burn medical waste at a medical waste incinerator that begins operation on or after January 1, 1990, has a capacity of 25 tons or more per day and is located in Burnett, Dunn, Kenosha, Milwaukee, Ozaukee, Pierce, Polk, Racine, St. Croix, Walworth, Washington or Waukesha county unless the person complies with s. 144.382 and obtains from each generator of the medical waste a copy of the policies under sub. (8) (a) and the annual assessment under sub. (8) (b).

(d) The department may grant, to a responsible unit, an exception to a prohibition in sub. (3), (4) or (5) for up to one year for a material identified in sub. (3), (4) or (5) in the event of an unexpected emergency condition.

(8) MEDICAL WASTE SOURCE REDUCTION POLICY. (a) A generator of medical waste that sends waste to a medical waste incinerator described in sub. (7) (c) 3 shall develop policies concerning reduction of medical waste, as defined in sub. (7) (c) 1. cg, including all of the following:

1. Education and training of staff.

2. Alternatives, including sterilization, to the use of disposable equipment.

3. An annual assessment of the medical waste source reduction policy.

(b) The generator shall submit the source reduction policy and the annual assessment to the operator of the medical waste incinerator.

(c) The operator of the medical waste incinerator described in sub. (7) (c) 3 shall retain a copy of the source reduction policy and the annual assessment and provide it to the department upon request. The department may analyze and disseminate the information that it obtains under this paragraph.

(d) The department may charge a fee for the analysis of a source reduction policy and assessment.

~~159.08 Biodegradable yard waste bags.~~ After December 31, 1990, no person may discharge, deposit, inject, dump or place in a solid waste facility that is for solid waste treatment or for solid waste storage yard waste that is in a bag unless the bag is constructed of a material that decomposes ~~by biodegradation~~ within a reasonable time after exposure to weather elements and is labeled as being so constructed. Vetoed in Part

**159.09 Municipal and county duties and powers.** (1) DESIGNATION OF RESPONSIBLE UNITS. (a) Except as provided in pars. (b) to (d), each municipality is a responsible unit.

(b) A county board of supervisors may adopt a resolution designating the county a responsible unit. Except as provided in pars. (c) and (d), a county that has adopted such a resolution is the responsible unit for the entire county. Vetoed in Part

(c) Within 90 days after the county board of supervisors adopts a resolution under par. (b), the governing body of a municipality that is located in part or in whole in the county may adopt a resolution retaining the municipality's status as a responsible unit.

(d) The governing body of a responsible unit designated under par. (a), (b) or (c) may by contract under s. 66.30 designate another unit of government or a solid waste management system created under s. 59.07 (135) to be the responsible unit in lieu of the responsible unit designated under par. (a), (b) or (c). The contract shall cover all functions required under sub. (2), including provisions for financing and enforcing the recycling or other solid waste management program.

(e) The governing body of a county that adopts a resolution under par. (b) or enters into a contract under par. (d) shall submit a copy of the resolution or contract to the department and to the clerk of each municipality in the county, within 30 days after adoption of the resolution or the signing of the contract. The governing body of a municipality that adopts a resolution under par. (c) or enters into a contract under par. (d) shall submit a copy of the resolution or contract to the department and to the clerk of the county in which the municipality is located, within 30 days after adoption of the resolution or the signing of the contract.

(2) DUTIES. Each responsible unit shall do all of the following:

(a) Develop and implement a recycling or other program to manage the solid waste generated within its region in compliance with s. 159.07 (1m) to (5) and the priorities under s. 159.05 (12).

(b) Submit to the department by January 1, 1993, a report setting forth how the responsible unit intends to implement its program under par. (a), as it relates to the requirements of s. 159.07 (3) to (5). The report shall specify all of the following:

1. Whether the responsible unit or another person designated under sub. (3) (a) will implement each component of the program under par. (a).

2. The procedures or processes that the responsible unit intends to use to separate, collect, store, process and market solid waste or components of solid waste and to educate the public on the program.

2m. The procedures or processes that the responsible unit intends to use to manage solid waste that is not separated for recovery or recycling, consistent with the priorities under s. 159.05 (12).

3. A schedule for the implementation of the program.

(c) Provide information requested by the department on the status of the implementation of the program under par. (a).

(3) POWERS. A responsible unit may do any of the following:

(a) Designate one or more other persons to implement specific components of the program under sub.

(2) (a), if the designated person consents to the designation.

(b) Adopt an ordinance to enforce the program established under sub. (2) (a). The ordinance may include a schedule of forfeitures to be imposed for violations of that ordinance. The ordinance may authorize the responsible unit or person designated under par. (a) to require a person using a recycling facility to upgrade or decontaminate solid waste so that recycling is feasible. The ordinance may authorize the responsible unit or person designated under par. (a) to refuse to accept solid waste at the recycling facility or site if a person does not satisfactorily upgrade or decontaminate the solid waste and the solid waste is contaminated or otherwise in a condition that makes recycling infeasible. The ordinance may require a person to use a facility for the recycling of solid waste or for the recovery of resources from solid waste, as defined in s. 159.13 (1) (d), only as provided under s. 159.13.

**159.095 Responsible unit liability.** (1) DEFINITION. In this section, "responsible unit official" means any officer, official, agent or employe of a responsible unit engaged in the planning, management, operation or approval of a recycling program or recycling site or facility.

(2) EXEMPTION FROM LIABILITY. No responsible unit official is liable for civil damages as a result of good faith actions taken by the responsible unit official within the scope of duties relating to the responsible unit's recycling program or recycling site or facility.

**159.10 Limit on local regulation.** No responsible unit that accepts funds under s. 159.23 or county or municipality located within such a responsible unit may impose a restriction, except one that is consistent with this chapter or ch. 100, or a tax or fee on the sale or distribution of packaging for a purpose relating to the disposal of the packaging.

**159.11 Effective recycling programs.** (1) DEPARTMENT REVIEW. Upon request of a responsible unit or an out-of-state unit, the department shall review documentation of the responsible unit's solid waste management program created under s. 159.09 (2) (a) or the out-of-state unit's solid waste management program and determine whether the program is an effective recycling program. The department shall complete its review and make a determination within 90 days after receiving the documentation. The department shall promulgate, by rule, its determination that an out-of-state unit's solid waste management program is an effective recycling program.

(2) EFFECTIVE PROGRAM CRITERIA FOR RESPONSIBLE UNITS. A responsible unit's solid waste management program is an effective recycling program if it includes all of the following:

(a) A public education component to inform residents of the region of the reasons to recycle, local

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opportunities to recycle and the prohibitions in s. 159.07 (3) to (5).

(b) A requirement that the occupants of single-family residences, buildings containing 2 or more dwelling units and commercial, retail, industrial and governmental facilities in the region either separate the materials identified in s. 159.07 (3) to (5) from postconsumer waste generated in the region or treat that postconsumer waste at a facility that will recover those materials from solid waste in as pure a form as is technically feasible, except that this paragraph does not apply to postconsumer waste burned at a facility described in s. 159.07 (7) (bg).

(c) A requirement that owners of buildings containing 5 or more dwelling units in the region do all of the following if postconsumer waste generated in those buildings is not treated at a facility that will separate the materials identified in s. 159.07 (3) to (5) from that postconsumer waste:

1. Provide adequate, separate containers for the program established under par. (b).

2. Notify tenants at the time of renting or leasing the dwelling and semiannually thereafter of the programs under this paragraph and par. (b).

3. Provide for the collection of recyclable materials separated from solid waste by the tenants and the delivery of the recyclable materials to a recycling facility.

(d) A requirement that owners of commercial, retail, industrial and governmental facilities in the region do all of the following if postconsumer waste generated in those buildings is not treated at a facility that will separate the materials identified in s. 159.07 (3) to (5) from that postconsumer waste:

1. Provide adequate, separate containers for the program established under par. (b).

2. Regularly notify all users and occupants of the facilities of the programs under this paragraph and par. (b).

3. Provide for the collection of recyclable materials separated from solid waste by the users and occupants and the delivery of the recyclable materials to a recycling facility.

(dm) A system of volume-based solid waste fees to generate revenue equal to the responsible unit's costs for solid waste management other than those reimbursed by the state. This criterion shall not apply to any responsible unit that separates for recycling at least 25% by volume or by weight of the solid waste collected within the region by the responsible unit or by any person under contract with the responsible unit.

(e) A system for collecting from single-family residences in the region any materials separated pursuant to par. (b).

(em) A system for the processing and marketing of recyclable materials collected by the responsible unit or by municipalities located in the responsible unit.

(er) A prohibition on disposing of in a solid waste disposal facility or burning in a solid waste treatment facility any material identified under s. 159.07 (3) to (5) that is separated for recycling as part of the program.

(ew) Provisions for the management of postconsumer waste that is not separated for recycling or recovery under par. (b) consistent with the highest feasible priority under s. 159.05 (12).

(f) Other provisions established by the department by rule.

(g) Adequate enforcement of the programs established under pars. (b) to (f).

(h) The equipment or means necessary to implement pars. (a), (b), (e), (em) and (g), including contracts for service, staff, supplies and equipment from vendors.

(i) A reasonable effort, through the implementation of pars. (a) to (h), to reduce to the maximum extent feasible the amount, by weight, of each material specified in s. 159.07 (3) to (5) that is generated as solid waste within the region and disposed of in a solid waste disposal facility or converted into fuel or burned without energy recovery in a solid waste treatment facility.

(2c) EFFECTIVE PROGRAM CRITERIA FOR OUT-OF-STATE UNITS. (a) An out-of-state unit's solid waste management program is an effective recycling program if it is in compliance with all recycling requirements imposed by the state in which the out-of-state unit is located and has all of the components under sub. (2).

(b) The department shall promulgate rules for the determination of comparability under par. (a). The rules shall require the comparison of an out-of-state unit to a similarly situated responsible unit. The rules shall require comparability in at least the following respects:

1. The level of governmental financing for the solid waste management program.

2. Enforcement mechanisms and effort.

3. The number of materials being separated and recycled.

(2m) VARIANCE. (a) In this subsection:

1. "Cost of disposing of processed material" means the gross cost of transferring processed material to a solid waste disposal facility and disposing of the processed material in the facility, including any disposal costs not paid through fees charged by the facility.

2. "Cost of selling processed material" means the net cost, including any storage costs, of selling processed material to a broker, dealer or manufacturing facility, plus any cost of transporting the processed material from the waste processing facility to the destination specified by the broker, dealer or manufacturing facility, less the portion of any state financial assistance received under s. 159.23 or 159.25 attributable to the processed material.

3. "Processed material" means a component of solid waste that has been collected, transported to a waste processing facility and prepared for sale to a broker, dealer or manufacturer.

(b) The department shall, at the request of a responsible unit that has been determined to have an effective recycling program under this section, grant a variance to the requirements in sub. (2) (b) and (er) for up to one year for a material identified in s. 159.07 (3), (4) or (5) that is generated in the responsible unit's region if the department determines that the cost of selling processed material exceeds any of the following:

1. Forty dollars per ton of processed material, as annually adjusted by the department to reflect changes in price levels due to inflation since 1989.

2. The cost of disposing of processed material.

(c) The department may on its own initiative grant, to one or more responsible units that have been determined to have effective recycling programs under this section, a variance to the requirements in sub. (2) (b) and (er) for up to one year for a material identified in s. 159.07 (3), (4) or (5) that is generated in the responsible units' regions if the department determines that the cost of selling processed material exceeds the amount under par. (b) 1 or 2.

(d) The department may grant a responsible unit a variance to a requirement in sub. (2) (b) or (er) for up to one year for a material identified in s. 157.07 (3), (4) or (5) in the event of an unexpected emergency condition.

(2s) NOTIFICATION. (a) The department shall notify the department of agriculture, trade and consumer protection whenever variances granted under sub. (2m) (b) for a plastic container, foam polystyrene packaging or any type of packaging that contains carbonated or malt beverages are in effect for responsible units representing 25% or more of the state's population.

(b) The department shall notify the department of agriculture, trade and consumer protection if, within 2 years after providing notification under par. (a) for a packaging material, the condition under par. (a) no longer exists for that packaging material.

(3) LIST. The department shall prepare and periodically update a list of responsible units and out-of-state units that have an effective recycling program.

**159.12 Out-of-state effective siting programs.** (1) DEFINITIONS. In this section:

(a) "Municipal solid waste treatment facility" means a solid waste facility designed primarily to burn or convert into fuel solid waste collected from residential or commercial sources that is owned or operated by a municipality or county or a private entity that offers incineration or conversion services to the public, a county or a municipality.

(b) "Municipal waste landfill" means a solid waste disposal facility that is not one of the following:

1. A solid waste disposal facility designed exclusively for the disposal of waste generated by a pulp mill, paper mill, foundry, prospecting or mining operation, electric or process steam generating facility or demolition activity.

2. A hazardous waste disposal facility.

(2) DEPARTMENT REVIEW. Upon the request of an out-of-state unit, the department shall review documentation of the solid waste management program of the state in which the out-of-state unit is located to determine whether that state has an effective program for siting municipal solid waste treatment facilities and municipal waste landfills.

(3) EFFECTIVE SITING PROGRAM. The state in which an out-of-state unit is located has an effective program for siting municipal solid waste treatment facilities and municipal waste landfills if the combined capacity added within the previous 4 years by the construction of new or the expansion of existing municipal solid waste treatment facilities and municipal waste landfills in that state exceeded the amount of solid waste generated in the state during those years, excluding high-volume industrial waste, as defined in s. 144.44 (7) (a) 1, prospecting or mining waste and demolition waste.

**159.18 Lead acid battery collection.** (1) DEFINITIONS. In this section:

(a) "Battery" means a lead acid battery.

(b) "Consumer" means a person who uses a battery.

(c) "Retailer" means a person who sells batteries to consumers.

(1m) NOTICE. (a) The department shall provide a notice concerning the disposal of batteries to all retailers. The notice shall be 8.5 inches by 11 inches and all notices shall be of the same color, typeface and type size. The notice shall include all of the following information:

1. That it is illegal to dispose of a motor vehicle battery or other battery in a landfill or incinerator.

2. That batteries should be recycled.

3. That state law requires retailers to accept used batteries in trade and in some other instances.

(b) A retailer shall post the notice provided under par. (a) in a place where it can be seen by consumers.

(2) SALE AND INSTALLATION. (a) Beginning on January 1, 1991, a retailer who sells a battery to a consumer and installs the battery shall accept the used battery unless the consumer refuses to relinquish the used battery.

(b) If the consumer refuses to relinquish the used battery under par. (a), the retailer shall comply with sub. (3).

(3) COUNTER SALES. (a) Beginning on January 1, 1991, if a retailer sells a battery to a consumer without installing the battery or if sub. (2) (b) applies, the retailer shall do all of the following:

2. Offer to take the consumer's used battery in trade.

3. Subject to par. (b), accept the consumer's used battery in trade for a new battery without charge or time limit, during normal business hours, at any business location owned or operated by the retailer.

(b) A retailer accepting a used battery in trade under par. (a) 3 may require the consumer to provide proof that the consumer purchased a battery from the retailer.

(4) ACCEPTANCE OF OTHER BATTERIES. (a) Except as provided in par. (b), beginning on January 1, 1991, if a person delivers to a retailer a used battery to which sub. (3) (a) 3 does not apply, the retailer shall accept the used battery. A retailer may charge up to \$3 for each battery delivered under this paragraph.

(b) A retailer is not required to accept more than 2 batteries delivered under this subsection by a person on one day.

(5) DEPOSIT. Beginning on January 1, 1991, a retailer may charge a deposit of not more than \$5 on the sale of a battery. The retailer shall refund the deposit if the consumer delivers the battery to the retailer under sub. (3) (a) 3.

**159.19 Statewide technical assistance.** The department shall provide assistance to individuals, groups, businesses, state agencies, counties and municipalities in all aspects of recycling consistent with this subchapter, and whenever practical shall be provided with an emphasis on documents and material easy to read and understand by the general public. This assistance may be provided through programs established under s. 159.21 and shall include all of the following:

(1) WASTE GENERATION. (a) Providing information on how to conduct a survey of the composition of solid waste and, as appropriate, conducting one or more surveys.

(b) Maintaining current estimates of the amount of components of solid waste specified in s. 159.07 generated by categories of businesses, industries, municipalities and other governmental entities.

(c) Providing solid waste generators with information on how to manage solid waste consistent with s. 159.05 (12).

(2) RECYCLING PROGRAMS. With respect to programs created under s. 159.09 (2) (a):

(a) Identifying appropriate qualifications of program coordinators and staff.

(b) Preparing sample ordinances, procedural handbooks and contracts.

(c) Identifying sources of information regarding the creation and operation of a municipal or county program.

(d) Providing advice, upon the request of a municipality or county, on implementing the municipality's or county's solid waste management plan.

(3) MARKETING OF RECOVERED MATERIALS. (a) Identifying prospective buyers and brokers of materials recovered from solid waste.

(b) Preparing suggestions for regional programs to market materials recovered from solid waste.

(c) Identifying methods to successfully accommodate fluctuating markets for materials recovered from solid waste.

**159.21 Statewide education program.** The department shall collect, prepare and disseminate information and conduct educational and training programs designed to assist in the implementation of solid waste management programs under ss. 159.01 to 159.31, enhance municipal and county solid waste management programs under s. 159.09 (2) (a) and inform the public of the relationship among an individual's consumption of goods and services, the generation of different types and quantities of solid waste and the implementation of the solid waste management priorities in s. 159.05 (12). The department shall prepare the information and programs on a statewide basis for the following groups:

(1) Municipal, county and state officials and employees.

(2) Kindergarten through graduate students and teachers.

(3) Private solid waste scrap brokers, dealers and processors.

(4) Businesses that use or could use recycled materials or that produce or could produce products from recycled materials and persons who provide support services to those businesses.

(5) The general public.

**159.22 Council on recycling.** (1) DEFINITION. In this section, "council" means the council on recycling.

(2) DUTIES. The council shall do all of the following:

(a) Promote the efficient and prompt implementation of state programs related to solid waste reduction, recovery and recycling.

(b) Advise and assist state agencies and authorities and county and municipal officials in the coordination of programs and the exchange of information related to solid waste reduction, recovery and recycling. This assistance, whenever practical, shall be provided with an emphasis on documents and material easy to read and understand by the general public.

(c) Advise state agencies concerning the promulgation of rules under ss. 100.29, 100.295, 101.126, 560.12, 560.65 and 560.835 and the establishment of priorities under s. 159.03 (1) (b).

(d) Advise the department and the university of Wisconsin system concerning educational efforts and research related to solid waste reduction, recovery and recycling.

(e) Develop recommendations concerning and promote a regional and interstate marketing system for recycled materials.

(f) Develop recommendations and submit a report to the legislature for distribution under s. 13.172 (2) concerning the establishment of a market development and research program to encourage recycling

and the use of recycled materials that is funded by the federal and state governments and private industry.

(g) Develop recommendations and cooperate with the packaging industry concerning establishing and implementing standards for recyclable packaging.

(h) Advise the department concerning the development of a statewide plan for public service announcements that would provide information about recycling programs and the benefits of recycling through radio and television announcements produced in this state's production facilities and designate a liaison with television and radio stations to try to secure the broadcast of the public service announcements.

(i) Advise the governor and the legislature by October 15 of each year on the following:

Vetoed  
in Part

1. The economic status of the recyclable materials market in this state including any primary and secondary markets within geographic regions of this state and without this state.
2. The current brokers, dealers and other persons providing to responsible units, municipalities and consumers in this state any recyclable materials marketing and collection services, solid waste collection and disposal services, hazardous waste collection and disposal services, incineration services and other processed material marketing services within the geographic regions of this state.
3. The current prices paid and prices charged to responsible units, municipalities and consumers for recyclable materials by the brokers, dealers and other persons providing recyclable materials collection and marketing services within the geographic regions within this state, including the prevailing market rate within these regions.
4. The current prices paid for solid waste collection and disposal services, hazardous waste collection and disposal services, incineration services and other processed materials collection and marketing services by responsible units, municipalities and consumers to brokers, dealers and other persons providing these services and facilities within the geographic regions of this state.
5. Methods to foster and encourage competition and to negate monopolistic practices among brokers, dealers and other persons providing these services and facilities within the geographic regions of this state.
6. Methods to encourage market efficiency, price stability and economic profitability, methods to promote regional competition for recyclable materials collection and marketing services and methods to negate price discrimination and other unfair trade practices among brokers, dealers and other persons providing these services and facilities within the geographic regions of this state. This may include, but is not limited to, specific recommendations related to establishing rate-making or rate-approving systems to regulate the prices paid for recyclable materials and other processed materials and to regulate the prices

charged for services and facilities provided for recyclable materials collection and marketing services, solid waste collection and disposal services, hazardous waste collection and disposal services, incineration services and other processed material collection and marketing services within the geographic regions of this state.

Vetoed  
in Part

(2m) STATUS REPORTS. The council may request a status report from any state agency or authority implementing a solid waste reduction, recovery or recycling program.

(3) SUBCOMMITTEES. The council may create subcommittees to assist in its work. Subcommittee members may include members of the council, state employes and representatives of counties and municipalities and others.

(4) ASSISTANCE. State agencies shall assist the council in fulfilling its duties to the fullest extent possible.

#### 159.23 Financial Assistance for responsible units.

(1) DEFINITIONS. In this section:

(ar) "Avoided disposal cost" means the amount of the cost of disposing of processed material, as defined in s. 159.11 (2m) (a) 1, that a responsible unit avoids as a result of operating a solid waste management program with one or more of the components specified in s. 159.11 (2) (a) to (h) during the year for which an application is submitted under sub. (4).

(c) "Population" means the number of persons residing in a region, as determined by the department based upon the most recent decennial or special census or the most recent, subsequent population estimate under s. 16.96.

(d) "Prevailing market rate" means a reasonable estimate of the price for a recyclable material that will be paid by a collection facility serving the area within the boundaries of a responsible unit during the year for which an application for assistance is submitted.

(2) DEPARTMENT POWERS AND DUTIES. The department shall develop, implement and administer a program to provide financial assistance to responsible units. The department shall develop criteria for reporting on and evaluating the program. Each year the department shall audit at least 5% of the recipients of grants in the previous year to ensure that programs and activities funded by grants under this section meet the requirements of this section.

(3) ELIGIBILITY. (a) Subject to par. (am), the following responsible units are eligible for assistance under the program:

1. For assistance in 1992 to 1994, any responsible unit.
2. For assistance in 1995 to 2000, a responsible unit that has been determined under s. 159.11 to have an effective recycling program.

(am) The department may withhold all or a portion of the assistance for a responsible unit for one year if the department determines any of the following:



1. That the responsible unit has not maintained an effective recycling program following approval of the recycling program under s. 159.11.

Vetoed  
in Part

2. That the responsible unit spent a significant amount of funds received under this section on activities not eligible for assistance under par. (b).

Vetoed  
in Part

(b) Except as provided in par. (c), only expenses, including capital expenses, anticipated to be incurred for planning, constructing or operating a recycling program with one or more of the components specified in s. 159.11 (2) (a) to (h) during the year for which an application is submitted under sub. (4) are eligible for assistance under the program.

Vetoed  
in Part

(c) A responsible unit may use the assistance that it receives under this section to enable it to comply with the prohibition under s. 159.07 (2).

(d) A responsible unit or its designee may not use assistance under this section to pay at retail at a collection facility any amount for a recyclable material in excess of the prevailing market rate.

(e) No expenses related to the purchase of plastic containers for the collection of recyclable materials are eligible for assistance under the program unless the recycled content of the plastic containers is at least 25% by weight.

(4) APPLICATION. A responsible unit that seeks assistance under the program shall submit an application to the department by September 1 in the year preceding the year for which the assistance is sought. An application shall include all of the following:

(a) The information specified in s. 159.09 (2) (b).

(b) Documentation that the assistance, when combined with future anticipated assistance, will result in the responsible unit doing one of the following:

1. Making continued progress in creating an effective recycling program under s. 159.11 by January 1, 1995.

2. Maintaining an effective recycling program following approval of the recycling program under s. 159.11.

(c) If the responsible unit received a grant under this section or 1989 Wisconsin Act .... (this act), section 85 (5) for the grant period preceding the grant period for which the application is being made, a financial report on the activities that have been or are likely to be funded by the grant in that preceding grant period, including a statement of whether any portion of that grant was or is likely to be spent on activities not related to the requirements of this subchapter and, if so, how much of the grant was or is likely to be spent on those activities.

(5) GRANT AWARD. The department shall award a grant to each eligible responsible unit that submits a complete grant application under sub. (4) for expenses allowable under sub. (3) (b). Except as provided under sub. (5m), the amount of the grant shall be determined as follows:

(a) For a county that is the responsible unit for at least 75% of the population of the county, \$100,000 or

the amount determined under par. (c), whichever is greater.

(c) For all other responsible units, the amount of the grant equals the lesser of the following:

1. The population of the responsible unit times \$6.

2. Sixty-six percent of eligible expenses, less any avoided disposal costs.

(5m) ALTERNATE PROCESS. The department shall establish, by rule, a process for distributing grants if the amount that would be awarded under sub. (5) exceeds the amount of funds available under s. 20.370 (4) (cw).

(5s) SUPPLEMENTAL GRANT. Beginning with grants for 1994, the department shall annually allocate 10% of the funds appropriated under s. 20.370 (4) (cw) for supplemental grants under this subsection. A responsible unit is eligible for a supplemental grant if, in at least part of the region, it imposes fees for residential solid waste collection on the basis of the volume of solid waste collected. The department shall base the amount of a supplemental grant on the number of persons within the responsible unit's region who pay volume-based fees for residential solid waste collection.

(6) DISBURSEMENT. The department shall disburse 50% of a grant to the applicant upon approval, but no later than January 1 of the year for which the grant is made. The department shall disburse the remainder of the grant by July 1 of the year for which the grant is made.

Vetoed  
in Part

(7) SUNSET. No grant may be awarded under this section for any year after 2000.

159.25 (3) (cm) Beginning on January 1, 1993, no responsible unit may apply for a demonstration grant unless it has complied with s. 159.09 (2) (b).

(4) (h) For a grant to a private business, consideration of the effect that the grant would have on the applicant's competitors.

Vetoed  
in Part

(4m) DEMONSTRATION GRANTS; PREFERENCES. The department shall give preference in awarding demonstration grants to waste reduction and recycling activities that do any of the following:

(a) Reduce the amount of one or more components of postconsumer waste disposed of in land disposal facilities by reducing the amount of the components generated.

(b) Result in an improved or more efficient collection or processing of one or more components of postconsumer waste.

(c) Develop or expand a market for one or more materials separated from postconsumer waste, pursuant to the priorities established under s. 159.03 (1) (b).

159.31 Newspaper recycling fee. (1) DEFINITIONS. In this section:

(a) "Newspaper" means a publication that is printed on newsprint and that is published, printed and distributed in this state, at daily, weekly or other short, periodic intervals, for the dissemination of current news and information of a general character and of a general interest to the public. "Newspaper" also

**Vetoed in Part** includes ~~advertising supplements printed on newsprint that are distributed as a component of a newspaper and any "shoppers guide", as defined in s. 77.54 (15), that is printed on newsprint.~~

(b) "Recycled content" means the proportion of fiber in a newspaper that is derived from postconsumer waste.

**Vetoed in Part** (2) FEE FOR NOT MEETING TARGET. Except as provided in sub. (4) (a), ~~after January 1, 1991,~~ each publisher of a newspaper shall annually pay to the department a newspaper recycling fee.

**Vetoed in Part** (3) AMOUNT. (a) Except as provided in sub. (4) (b), the amount of the newspaper recycling fee imposed on a publisher under sub. (2) for any year is ~~10%~~ of the total cost of newsprint used to print the newspaper during the year multiplied by the recycling status specified in par. (b).

(b) The recycling status is the target recycled content specified in par. (c) minus the actual recycled content specified in par. (d).

(c) The target recycled content is the following recycled content in the specified year:

- Vetoed in Part** 1. ~~1991 and 1992, 10%.~~
- 2. 1993 and 1994, 25%.
- 3. 1995 and 1996, 40%.
- 4. 1997 and 1998, 42%.
- 5. 1999 and 2000, 43%.
- 6. 2001 and thereafter, 45%.

(d) The actual recycled content is the average of the recycled content of all newsprint used by that publisher to print the publisher's newspaper during the year.

(4) EXCEPTIONS. (a) The newspaper recycling fee imposed under sub. (2) does not apply to the publisher of a newspaper that meets or exceeds the target recycled content specified in sub. (3) (c).

(am) The newspaper recycling fee imposed under sub. (2) does not apply to the publisher of a newspaper if the publisher is unable to obtain recycled newsprint in sufficient quantity, has attempted to obtain recycled newsprint from every producer of recycled newsprint that offered to sell recycled newsprint to the publisher within the preceding 12 months, and submits to the department documentation of its attempts including the name and address of each producer of recycled newsprint that the publisher contacted and the name and telephone number of the contact person at each of the producers.

(b) 1. The department shall reduce the newspaper recycling fee imposed on a publisher if it determines that the publisher purchased newsprint under a contract signed on or before July 1, 1989, and all of the following apply:

a. The contract requires the publisher to accept and pay for newsprint having a recycled content less than the target recycled content specified in sub. (3) (c).

b. The contract does not contain language releasing the publisher from the obligation to purchase and pay

for the newsprint upon the enactment of laws by this state relating to taxation or recycling of newsprint.

2. The department shall calculate the reduced fee under this paragraph as follows:

a. Subtract the amount of newsprint described in subd. 1 used by the publisher during the year from the total amount of newsprint used by the publisher during the year.

b. Divide the amount of newsprint determined under subd. 2. a by the total amount of newsprint used by the publisher during the year.

c. Multiply the amount determined under subd. 2. b by the amount of the newspaper recycling fee calculated under sub. (3).

(5) COLLECTION. The department shall specify by rule the form and manner for payment of the newspaper recycling fee.

(6) USE OF REVENUES. The newspaper recycling fees collected under sub. (5) shall be deposited in the recycling fund under s. 25.49.

SUBCHAPTER III

LITTERING

**159.81 Littering.** (1) In this section:

(a) "Highway" has the meaning given in s. 340.01 (22).

(b) "Vehicle" has the meaning given in s. 340.01 (74).

(c) "Waters of the state" has the meaning given in s. 144.01 (19).

(2) Except as provided in sub. (3), a person who does any of the following may be required to forfeit not more than \$500:

(a) Deposits or discharges any solid waste on or along any highway, in any waters of the state, on the ice of any waters of the state or on any other public or private property.

(b) Permits any solid waste to be thrown from a vehicle operated by the person.

(c) Fails to remove within 30 days or otherwise abandons any automobile, boat or other vehicle in the waters of the state.

(3) (a) Subsection (2) (a) does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property.

(b) Subsection (2) does not apply to a person who deposits or discharges solid waste in conformance with ch. 30, 31, 144 or 147 or a permit, license or other approval issued by the department under those chapters.

SUBCHAPTER IV

ENFORCEMENT AND PENALTIES

**159.91 Enforcement; duty of department of justice; expenses.** The attorney general shall enforce this chapter except for ss. 159.07, 159.08 and 159.81 and all rules promulgated under this chapter except under those sections. The circuit court for Dane county or for any other county where a violation occurred in

whole or in part has jurisdiction to enforce this chapter or related rules by injunctive and other relief appropriate for enforcement. The department of natural resources shall reimburse the department of justice for the expenses incurred in enforcing this chapter from the appropriation under s. 20.370 (2) (ma).

**159.93 Inspections.** Any officer, employe or authorized representative of the department may enter and inspect any place at which a solid waste facility is located or is being constructed or installed, or inspect any record relating to solid waste management of any person who generates, transports, treats, stores or disposes of solid waste, at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and rules promulgated under this chapter. No person may refuse entry or access to any officer, employe or authorized representative of the department who requests entry or access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with any such inspection. The department, if requested, shall furnish to the owner or operator of the premises a report setting forth all facts found that relate to compliance status.

**159.95 Penalties concerning land disposal and incineration; citations.** (1) Any person who violates s. 159.07 (1m) may be required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent violation.

(2) (a) Any person who violates s. 159.07 (2) or 159.08 before January 1, 1995, is not subject to a penalty.

(b) After December 31, 1994, any person who violates s. 159.07 (2) or 159.08 may be required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent violation.

(3) (a) Any person who violates s. 159.07 (3) to (5) before January 1, 1997, is not subject to a penalty.

(b) After December 31, 1996, any person who violates s. 159.07 (3) to (5) may be required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent violation.

(4) The department may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture for the violations under subs. (1), (2) (b) and (3) (b).

**159.97 Penalties.** Any person who violates this chapter, except s. 159.07, 159.08 or 159.81, or any rule promulgated under this chapter, except under s. 159.07, 159.08 or 159.81, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.

**SECTION 77.** 227.01 (13) (zi) of the statutes is created to read:

227.01 (13) (zi) Lists responsible units, as defined in s. 159.01 (9), and out-of-state units, as defined in s. 159.01 (5), with an effective recycling program under s. 159.11 (3).

**SECTION 77e.** 234.265 (2) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

234.265 (2) Records or portions of records consisting of personal or financial information provided by a person seeking a grant or loan under s. 234.08, 234.49, 234.59, 234.65, 234.67, 234.70, 234.90, 234.905 or 234.907, seeking financial assistance under ss. 234.75 to 234.807, seeking investment of funds under s. 234.03 (18m) or in which the authority has invested funds under s. 234.03 (18m), unless the person consents to disclosure of the information.

**SECTION 77g.** 234.67 of the statutes is created to read:

**234.67 Recycling loan guarantees.** (1) **DEFINITIONS.** In this section:

(a) 1. "Deficiency" means the guaranteed percentage of the unpaid principal amount of a defaulted guaranteed loan that remains after a participating lender has enforced all security interests under sub. (4) (a).

2. "Deficiency" does not include any interest, any origination fees or other charges relating to the guaranteed loan or any expenses incurred by the participating lender in enforcing any security interest.

(am) "Diaper service" means a business that supplies and launders cloth diapers.

(b) "Final guaranteed loan" means the last guaranteed loan to come due after the authority is unable to guarantee new loans because of the limit under sub. (3) (b).

(c) "Guaranteed loan" means a loan on which the authority guarantees collection under sub. (3).

~~(cm) "Paper products" means newspapers or other materials printed on newsprint or magazines or other materials printed on similar paper.~~ **Vetoed in Part**

(e) "Participating lender" means a bank, credit union, savings and loan association or other person, who makes loans for working capital or to finance physical plant needs, equipment or machinery and who has entered into an agreement with the authority under sub. (5).

(f) "Percentage of guarantee" means the percentage established by the authority under sub. (3) (a).

(g) "Postconsumer waste" has the meaning given in s. 159.01 (7).

(gm) "Recycling loan fund" means the fund established under s. 234.68.

(h) "Security interest" means an interest in property or other assets that secures payment or other performance of a guaranteed loan.

(2) **ELIGIBLE LOANS.** A loan made by a participating lender is eligible for guarantee of collection by the authority if all of the following apply:

(a) The loan is made to do one of the following:

Vetoed  
in Part

1. Expand or improve an existing diaper service or to start a new diaper service.

2. To provide working capital or to finance any of the following items, if the working capital or item is necessary to, or used to, produce in this state a product from ~~paper~~ products recovered from postconsumer waste:

a. Physical plant.

b. Machinery or equipment.

(b) The rate of interest on the loan, including any origination fees or other charges, is fixed at a rate determined by the participating lender and approved by the authority.

(c) The total principal amount of all loans to the borrower that are guaranteed under this section will not exceed \$750,000.

(e) The participating lender obtains a security interest in physical plant, equipment, machinery or other assets.

(f) The loan term does not extend beyond 15 years after the date that the participating lender disburses the loan unless the loan is extended by the authority.

(g) The proceeds of the loan are not applied to the outstanding balance of any other loan.

(i) The borrower does not meet the participating lender's minimum standards of creditworthiness to receive a loan for the purposes described in par. (a) in the normal course of the participating lender's business.

(j) The participating lender considers the borrower's assets, cash flow and managerial ability sufficient to preclude voluntary or involuntary liquidation for the loan term granted by the participating lender.

(k) The participating lender agrees to the percentage of guarantee established for the loan by the authority.

(3) GUARANTEE OF COLLECTION. (a) Subject to par. (b), the authority shall guarantee collection of a percentage, not exceeding 90%, of the principal of any loan eligible for a guarantee under sub. (2). The authority shall establish the percentage of the unpaid principal of an eligible loan that will be guaranteed, using the procedures described in the guarantee agreement under sub. (5) (a). The authority may establish different percentages for eligible loans on an individual basis.

(b) The total principal amounts of all loans which the authority may guarantee under par. (a) may not exceed \$10,000,000.

(4) DEFAULT. (a) A participating lender shall determine when a guaranteed loan is in default, except that any guaranteed loan not repaid in full on or before the end of the loan term is in default. Upon default, if a deficiency remains after the participating lender has enforced to the fullest extent possible any security interest and has collected any proceeds payable from any insurance policy protecting the borrower's busi-

ness, the participating lender may notify the authority of the enforcement and deficiency. The authority may not accept notice of enforcement and deficiency after the 60th day beginning after the guaranteed loan is determined to be in default under this paragraph.

(b) Not more than 60 days after accepting notice of enforcement and deficiency under par. (a), the authority shall pay the amount of the deficiency to a participating lender from the recycling loan fund.

(5) ADMINISTRATION. (a) The authority shall enter into a guarantee agreement with any bank, credit union, savings and loan association or other person who wishes to participate and provide loans guaranteed under this section. The authority may determine all of the following, consistent with this section:

1. The form of the agreement.

2. Any conditions under which the authority may refuse to enter into such agreement.

3. Any procedures required to carry out the agreement, including procedures for determining the guaranteed percentage of each loan.

(b) The authority may not use any moneys other than those in the recycling loan fund to guarantee a loan under this section.

(c) The authority may establish an eligibility criteria review panel, consisting of recycling and finance experts, to advise the authority about lending requirements and issues related to the administration of this section.

~~(d) The authority shall consider the effect of guaranteeing a loan on the borrower's competitors.~~

(6) MORAL OBLIGATION. Recognizing its moral obligation to do so, the legislature expresses its expectation and aspiration that, if ever called upon to do so, it shall make an appropriation to meet all demands for funds under this section.

(7) BALANCE TRANSFER. (a) On the 180th day beginning after the day that the term of the final guaranteed loan expires, the authority shall transfer to the general fund any balance remaining in the recycling loan fund on that date, after deducting an amount sufficient to pay all claims outstanding under this section on the date of the transfer.

(b) If under par. (a) the authority deducts an amount sufficient to pay outstanding claims, the authority shall transfer moneys to the general fund each calendar quarter as claims are resolved, until no balance remains in the recycling loan fund.

(8) ANNUAL REPORT. On or before November 1 annually beginning in 1990, the authority shall submit to the chief clerk of each house of the legislature for distribution under s. 13.172 (2) a report on the number and total dollar amount of guaranteed loans, the default rate on the loans and any other information on the program under this section that the authority determines is significant.

(9) PROGRAM TERMINATION. After the 180th day beginning after the day that the term of the final guar-

Vetoed  
in Part

anted loan has expired, subs. (1) to (8) apply only to outstanding unresolved claims.

SECTION 77i. 234.68 of the statutes is created to read:

**234.68 Recycling loan fund.** There is established under the jurisdiction and control of the authority a recycling loan fund, consisting of all of the following:

(a) Money appropriated to the authority under s. 20.490 (7) (q) or received by the authority for recycling loan guarantees from any other source.

(b) Income from investment of money in the recycling loan fund by the authority under s. 234.03 (18).

SECTION 77m. 303.015 (1) (b) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

303.015 (1) (b) The board shall develop a plan containing recommendations for the manufacture and marketing of prison industries products ~~and for~~, the provision of prison industries services and the provision of research and development activities. Whenever feasible, the plan shall include research activities with a facility involved in the cocomposting of solid waste and sludge from wastewater treatment facilities. The plan may include, but is not limited to, recommended market research, product modifications, manufacturing techniques, pricing policies, advertising and elimination or establishment of specific industries or products. No prison industry may be established or permanently closed without approval of the board.

SECTION 77n. 345.11 (1u) of the statutes is created to read:

345.11 (1u) The uniform traffic citation may be used by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 for a violation of s. 159.81.

SECTION 77p. 345.20 (2) (g) of the statutes is created to read:

345.20 (2) (g) Sections 23.50 to 23.85 apply to actions in circuit court to recover forfeitures for violations of s. 159.81. No points may be assessed against the driving record of a person convicted of a violation of s. 159.81. The report of conviction and abstract of court record copy of the citation form shall be forwarded to the department.

SECTION 77r. 346.94 (6) and (6m) of the statutes are repealed.

SECTION 78. 560.08 (2) (k) and (km) of the statutes are created to read:

560.08 (2) (k) Submit to the department of natural resources for use under ss. 159.19 and 159.21 and develop for use under s. 560.07, all of the following:

1. Information on new markets for materials recovered from solid waste, including new markets developed by other states and the federal government and its contractors.

2. A directory and other materials that describe direct and indirect state financial assistance available to new and existing businesses that are involved with

recycling solid waste, that help reduce the amount of solid waste or that encourage the use of products that are not disposed of after a single use.

3. Information on opportunities to develop or expand solid waste recycling businesses in this state.

(km) In connection with its duties under par. (k), do all of the following:

1. Promote the solid waste management priorities in s. 159.05 (12) and the recycling market development priorities established under s. 159.03 (1) (b).

2. Emphasize, where feasible, products or processes that use recovered materials or that encourage the use of products that are not disposed of after a single use and that could be established in the state by new or existing businesses through any of the following:

a. Adoption of readily available and reasonably standardized, but underused, products and processes.

b. Modification or new application of existing technologies.

SECTION 78c. 560.09 (5) of the statutes is created to read:

560.09 (5) CONSULTATION. The department shall consult with the council on recycling in developing any proposed rules under s. 560.12, 560.65 or 560.835.

SECTION 78g. 560.12 of the statutes is created to read:

**560.12 Recycling rebate program.** (1) DEFINITIONS. In this section:

(ad) "Qualified property" means machinery or equipment that is used exclusively in the process of recycling.

(ag) "Recycling" means the recovery of useful materials or the manufacture of products from waste with or without treatment and excludes any form of energy recovery or composting.

(am) "Recycling enterprise" means a person who engages in recycling or who uses materials recovered from waste.

(2) DEPARTMENT POWERS AND DUTIES. The department shall develop, implement and administer a recycling rebate program. The department shall develop criteria for reporting on and evaluating the program.

(3) PURPOSES OF RECYCLING REBATE PROGRAM. The department shall develop the recycling rebate program to increase the recycling of waste that is generated in this state by:

(a) Offsetting the increased cost of making products that use waste as a raw material or components made from waste, in order to make those products competitive with products made with new materials.

(b) The establishment and expansion in this state of viable recycling enterprises, with emphasis on provision of support to recycling enterprises during start-up and expansion phases.

(c) The creation of stable, long-term markets for waste.

(4) ELIGIBILITY. A sole proprietorship, association, partnership or corporation may apply for a recycling rebate if all of the following apply:

(a) It is located in this state.

(b) It makes products using waste as a raw material or components made from solid waste, establishes and maintains policies and procedures that give preference for using solid waste generated in this state and for each year in which it receives a rebate at least 50% of the solid waste used is generated in this state.

(c) It demonstrates that it has sufficient management expertise and marketing opportunities to remain self-sustaining after receiving recycling rebates.

(d) It meets other eligibility requirements established by the department.

(5) REBATES FOR QUALIFIED PROPERTY. (a) Before January 1, 1996, the department shall pay recycling rebates to recycling enterprises for qualified property placed in service in this state after December 31, 1990. The annual amount of rebates paid under this subsection may not exceed 50% of the amount appropriated under s. 20.143 (1) (t).

(b) The department shall make a rebate under par. (a) from the appropriation under s. 20.143 (1) (t) as a one-time payment in an amount established by the department but not less than 5% nor more than 10% of the cost of the qualified property except that if the qualified property replaces equipment or machinery used to make products from solid waste, the department shall base the amount of the rebate on the increase in the amount of solid waste used by the recycling enterprise. ~~The department shall develop criteria for providing rebates under par. (a) if eligible applications exceed the total amount available.~~ A rebate under this subsection may not exceed \$300,000 for any one facility.

Vetoed  
in Part

(6) REBATES FOR OTHER ACTIVITIES. (a) The department shall pay recycling rebates for types of activities selected by the department based on the potential for meeting the goals of the recycling rebate program and the state priorities established under s. 159.03 (1) (b) in effect on January 1 of the year in which the department makes the selection.

(b) For each type of activity identified under par. (a), the department shall establish the rate of payment and the total amount of recycling rebates to be paid. The department shall base the rate of payment and the total amounts of recycling rebates for each type of activity on the amount of money available to pay rebates and the determination by the department of the amount of rebates necessary to accomplish the purposes of the recycling rebate program and the state priorities established under s. 159.03 (1) (b) in effect on January 1 of the year in which the department makes the determination.

(c) The department shall make a commitment to pay recycling rebates under this subsection for a period of up to 5 years subject to the availability of funds.

The department shall develop criteria for selecting the applicants to receive recycling rebates if eligible applications for any type of activity exceed the total amount set aside for that type of activity under par. (b). The department may establish a maximum payment to any applicant for a year.

(b). The department may establish a maximum payment to any applicant for a year.

(d) The department shall pay recycling rebates to each applicant selected to receive recycling rebates under this subsection after the end of each year from the appropriation under s. 20.143 (1) (t), an amount calculated by multiplying the rate established under par. (b) times the actual amount of increased use of waste by the applicant during the year.

(7) APPLICATION. The department shall, by rule, develop application procedures for the recycling rebate program. The application for a rebate shall show that the applicant satisfies the requirements of sub. (4). The application for a rebate under sub. (5) shall identify the qualified property and the facility in which it is used and state the cost of the qualified property and the date that it was placed in service. The application for a rebate under sub. (6) shall include an estimate of the amount of solid waste used by the applicant in the year for which the application is submitted, an estimate of the increased amount of solid waste that will be used by the applicant in the period for which the application is submitted and documentation to support the estimated increase in waste used.

~~(8) EFFECT ON COMPETITORS. Before making a commitment to pay recycling rebates, the department shall consider the effect of paying the recycling rebates on other recycling enterprises or diaper services that compete with the applicant.~~

Vetoed  
in Part

SECTION 79. 560.605 (1) (f) and (g) of the statutes, as affected by 1989 Wisconsin Act 31, are amended to read:

560.605 (1) (f) The project meets all criteria set forth in s. 560.62, 560.625, 560.63, 560.64, 560.65 or 560.66, whichever is appropriate.

(g) Funds from the grant or loan under ss. 560.62, 560.625, 560.63, 560.65 and 560.66 will not be used to pay overhead costs, except as provided in s. 560.65 (2), or to replace funds from any other source.

SECTION 80. 560.61 (1) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

560.61 (1) Make a grant or loan to an eligible recipient for a project that meets the criteria for funding under s. 560.605 (1) and (2) and under s. 560.62, 560.625, 560.63, 560.64, 560.65 or 560.66, whichever is appropriate, from the appropriations under s. 20.143 (1) (c), (d) ~~and~~, (ie) and (s).

SECTION 81. 560.65 of the statutes is created to read:

**560.65 Recycling loans.** (1) In this section, "post-consumer waste" has the meaning given in s. 159.01 (7).

(1m) (a) Subject to par. (b), the board may award a loan not exceeding \$750,000 under s. 560.61 to a new or expanding business to fund any of the following:

1. The production of a product made from one or more materials recovered from postconsumer waste or of equipment necessary to make the product.

2. The establishment or expansion of a diaper service, as defined in s. 234.67 (1) (am).

**Vetoed in Part** (b) ~~(b)~~ The board may not award a loan under par. (a) 1 unless it determines that the production funded is consistent with the priorities established under s. 159.03 (1) (b) for the development of markets for materials recovered from solid waste in effect on January 1 of the year in which the business submits a complete application for a loan under this section to the department.

**Vetoed in Part** 2. ~~Before awarding a loan under this section, the board shall consider the effect of the loan on the eligible recipient's competitors.~~

(2) A business may use the proceeds of a loan under this section for capital expenses or working capital expenses.

SECTION 81mc. 560.80 (4), (5) and (11) of the statutes, as created by 1989 Wisconsin Act 31, are amended to read:

560.80 (4) (a) "Eligible development project costs" means costs that, in accordance with sound business and financial practices, are appropriately incurred in connection with a development project or a recycling development project.

(b) "Eligible development project costs" does not include entertainment expenses or expenses incurred before the board approves a grant or loan ~~for the development project~~ under s. 560.83 or 560.835.

(5) "Eligible recipient" means a person who is eligible to receive a grant under s. 560.82 (5) or a grant or loan under s. 560.83 (5) or 560.835.

(11) "Project" means a development project, a recycling development project or an early planning project, ~~or both.~~

SECTION 81md. 560.80 (12) of the statutes is created to read:

560.80 (12) "Recycling development project" means an activity described in s. 560.835 (1) (a) to (d).

SECTION 81me. 560.81 (2) and (3) of the statutes, as created by 1989 Wisconsin Act 31, are amended to read:

560.81 (2) The board awards a grant or loan to the eligible recipient under ss. 560.83 and 560.84 or under ss. 560.835 and 560.84.

(3) The board awards a grant or loan to the local development corporation under s. 560.83 (2) or 560.835.

SECTION 81mg. 560.835 of the statutes is created to read:

**560.835 Minority business recycling development grants and loans.** (1) Subject to s. 560.84, the board may award a grant or loan under this section to an

eligible recipient to fund any of the following recycling development projects:

(a) The production of a product made from one or more materials recovered from postconsumer waste, as defined in s. 159.01 (7).

(b) The acquisition of equipment necessary to make a product under par. (a).

(c) The development and operation of a facility to process materials recovered from a solid waste management program that complies with s. 159.07 (1m), (3), (4) or (5).

(d) The expansion, improvement or development of a diaper service, as defined in s. 234.67 (1) (am).

(2) Section 560.83 (2), (3) and (5), as it applies to a development project under that section applies to a recycling development project under this section.

(3) The board or a local development corporation may not award grants or loans under this section that total more than \$250,000 in a fiscal biennium to any one eligible recipient or for any one recycling development project.

~~(4) (a)~~ The board or a local development corporation may not award a grant or loan under this section unless it determines that the recycling development project is consistent with the priorities established under s. 159.03 (1) (b), in effect on January 1 of the year in which the eligible recipient submits a complete application for a grant or loan under this section.

~~(b) Before awarding a grant or loan under this section, the board or a local development corporation shall consider the effect of the grant or loan on the eligible recipient's competitors.~~

(5) An eligible recipient may use the proceeds of a loan under this section for capital expenses or working capital expenses.

SECTION 81mi. 560.84 (1) (b) 2, (e) 2, (f) and (j) and (2) (a) 2, (c) (intro.) and (f) of the statutes, as created by 1989 Wisconsin Act 31, are amended to read:

560.84 (1) (b) 2. If a development project or recycling development project, that the project will retain or increase employment in this state.

(e) 2. For grants and loans funding development projects or recycling development projects, not less than 25% of the cost of the ~~development~~ project.

(f) That the project meets all criteria set forth in s. 560.82 ~~or~~, 560.83 or 560.835, whichever is appropriate.

(j) If a development project or recycling development project, that funds from the grant or loan will not be used to refinance existing debt.

(2) (a) 2. If a development project or recycling development project, the extent to which the project will retain or increase employment in this state.

(c) (intro.) If a development project or recycling development project, whether the project will be located in any or all of the following:

(f) If a development project or recycling development project, the financial soundness of the minority business involved in the ~~development~~ project and the

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commitment of the eligible recipient to repay the loan or grant.

SECTION 81mk. 560.85 (2) and (3) (b) of the statutes, as created by 1989 Wisconsin Act 31, are amended to read:

560.85 (2) The board shall develop a policy governing the repayment of grants and loans made under s. 560.83 or 560.835. The board or department shall deposit moneys received in repayment of grants and loans under s. 560.83 in the appropriation under s. 20.143 (1) (im) and shall deposit money received in repayment of grants and loans under s. 560.835 in the appropriation under s. 20.143 (1) (ip).

(3) (b) Develop procedures, with the approval of the board, to evaluate applications, monitor project performance and audit grants and loans awarded for development projects under s. 560.83 and recycling development projects under s. 560.835.

SECTION 81mn. 947.047 of the statutes is repealed.

SECTION 81mr. 1987 Wisconsin Act 296, section 2 is repealed.

SECTION 82. **Nonstatutory provisions; administration.** (1) REVIEW OF PURCHASING SPECIFICATIONS. (a) Notwithstanding section 16.72 (2) (e) 1 to 7 of the statutes, as created by this act, by January 1, 1991, the department of administration, any other designated purchasing agent under section 16.71 (1) of the statutes and each authority, as defined in section 16.70 (2), of the statutes, as affected by this act, shall incorporate requirements into purchasing specifications for purchase of the materials, supplies and equipment identified in section 16.72 (2) (e) 1 to 7 of the statutes, as created by this act, manufactured from recycled and recovered materials, if their use is technically and economically feasible.

(b) Notwithstanding section 16.72 (2) of the statutes, as affected by this act, by the first day of the 25th month beginning after the effective date of this paragraph, the department of administration, any other designated purchasing agent under section 16.71 (1) of the statutes and each authority, as defined in section 16.70 (2), of the statutes, as affected by this act, shall review and modify all purchasing specifications in effect on the effective date of this paragraph prescribed under section 16.72 (2) of the statutes, as affected by this act, except specifications for materials, supplies and equipment specified in section 16.72 (2) (e) 1 to 7 of the statutes, as created by this act, to ensure that all of those specifications conform with section 16.72 (2) (e) and (f) of the statutes, as affected by this act.

(c) The department of administration shall include in the annual report required under section 16.72 (7) of the statutes, as created by this act, information concerning the level of compliance with paragraphs (a) and (b) by the department and other agencies and authorities, as defined in section 16.70 of the statutes,

as affected by this act, and reasons for any failure to fully comply with paragraphs (a) and (b).

(1m) PURCHASING SPECIFICATION DEVELOPMENT. The authorized FTE positions for the department of administration are increased by 1.0 GPR project position to develop purchasing specifications for products made from recycled materials and recovered materials for the period beginning on the effective date of this subsection and ending on the first day of the 37th month beginning after the effective date of this subsection.

SECTION 83. **Nonstatutory provisions; agriculture, trade and consumer protection.** (1) The authorized FTE positions for the department of agriculture, trade and consumer protection are increased by 2.0 FTE SEG positions on July 1, 1990, to be funded from the appropriation under section 20.115 (1) (u) of the statutes, as created by this act, for the implementation and enforcement of recyclable and nonrecyclable products regulation.

~~(2) The authorized FTE positions for the department of agriculture, trade and consumer protection are increased by 0.5 SEG 2-year project position on July 1, 1990, to be funded from the appropriation under section 20.115 (1) (u) of the statutes, as created by this act, for conducting the study under subsection (3m).~~ **Vetoed in Part**

~~(2m) (a) The department of agriculture, trade and consumer protection shall submit the proposed rules required under section 93.55 (3) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 7th month beginning after the effective date of this paragraph.~~ **Vetoed in Part**

(c) The department of agriculture, trade and consumer protection shall study the results of chemical and container collection demonstration programs funded under section 93.55 of the statutes, as created by this act. The department shall report its findings and recommendations, including recommendations for future funding, by July 1, 1991, to the chief clerk of each house of the legislature for distribution to the appropriate standing committees in the manner provided under section 13.172 (3) of the statutes.

~~(3m) The department of agriculture, trade and consumer protection shall conduct a study of the feasibility of creating an exception to restrictions on sales of types of products or packaging under section 100.29 of the statutes, as created by this act, for businesses that have an adequate program to reduce the solid waste that they produce in the production of products or packaging or that results from the use of their products. The study shall consider whether such a solid waste reduction program should be implemented on a business-by-business basis or by type of material; how this solid waste reduction should be measured; the administrative ease of implementing an exception based on solid waste reduction programs; and the amount of solid waste that is diverted by vari~~ **Vetoed in Part**



Vetoed  
in Part

~~ous methods and measures. The department of agriculture, trade and consumer protection shall submit a report on the results of its study to the governor and the chief clerk of each house of the legislature for distribution in the manner provided in section 13.172 (2) of the statutes on or before December 31, 1991.~~

**SECTION 84. Nonstatutory provisions; development.** (1) The authorized FTE positions for the department of development are increased by 1.0 SEG position on July 1, 1990, to be funded from the appropriation under section 20.143 (1) (q) of the statutes, as created by this act, to administer section 560.08 (2) (k) and (km) of the statutes, as created by this act.

(2) The authorized FTE positions for the department of development are increased by 3.0 SEG positions on July 1, 1990, to be funded from the appropriation under section 20.143 (1) (r) of the statutes, as created by this act, for the administration of recycling loans and recycling rebates.

**SECTION 85. Nonstatutory provisions; natural resources.** (1) The department of natural resources shall study barriers to the recycling of discarded major appliances under subchapter II of chapter 159 of the statutes as created by this act. The study shall include all of the following:

(a) Identification of which types and makes of these appliances were constructed with capacitors that contain polychlorinated biphenyls.

(b) Identification of other environmental hazards associated with the handling of these appliances.

(2) The department of natural resources shall complete the study under subsection (1) by June 30, 1991, and shall distribute the final report to appropriate solid waste managers, scrap dealers and processors and other interested persons.

(2m) The department of natural resources shall study methods of collection of household batteries and the feasibility and benefits of recycling household batteries. The department of natural resources shall submit a report on the findings of the study to the governor and to the chief clerk of each house of the legislature for distribution in the manner provided under section 13.172 (2) of the statutes on or before July 1, 1991.

(2p) The department of natural resources shall develop a plan for awarding supplemental grants under section 159.23 of the statutes, as created by this act, to responsible units, as defined in section 159.01 (9) of the statutes, as created by this act, for costs of transporting recyclable material from the solid waste processing facility to the purchaser. The department of natural resources shall submit the plan no later than December 1, 1990, with proposed legislation needed to implement the plan, to the chief clerk of each house of the legislature for distribution in the manner provided in section 13.172 (2) of the statutes. The plan shall do all of the following:

(a) Define transportation costs as costs incurred by the responsible unit for transporting the processed

material from the waste processing facility to the destination specified by the broker, dealer or manufacturing facility that is purchasing the material, less the portion of any state financial assistance received under the municipal and county grant program established under this act.

(b) Provide that responsible units that are eligible for these grants could be reimbursed for up to 50% of transportation costs, with a higher priority for responsible units with the least population and the highest distance to transport processed material.

(c) Provide that funding for supplemental grants is from the appropriation under section 20.370 (4) (cw) of the statutes, as created by this act, and that if funds are insufficient in a given year, priority is given to funding the basic grants under section 159.23 of the statutes, as created by this act.

(d) Include a method of evaluating the cost of transporting processed material; a means of determining eligible costs that incorporates consideration of cost-effectiveness and cost-minimization; minimization of municipal administrative requirements; and any other provisions necessary to implement the program.

(3) The authorized FTE positions for the department of natural resources are increased on July 1, 1990, by 9.75 SEG positions and 3.0 SEG 3-year project positions to be funded from the appropriation under section 20.370 (2) (hq) of the statutes, as created by this act, for the purposes of administering the state recycling program.

(4) The authorized FTE positions for the department of natural resources are increased by 0.5 SEG position on July 1, 1990, to be funded from the appropriation under section 20.370 (4) (iw) of the statutes, as created by this act, for the administration of municipal and county recycling grants and waste reduction and recycling demonstration grants.

(4g) The authorized FTE positions for the department of natural resources are increased by 1.0 GPR position and 1.0 GPR 3-year project position on July 1, 1990, to be funded from the appropriation under section 20.370 (2) (dc) of the statutes, as created by this act, for the purpose of coordinating rural solid waste activities and providing technical assistance and plan review for the closure of nonapproved solid waste disposal facilities.

(4j) The authorized FTE positions for the department of natural resources are increased by 1.5 GPR positions and 2.0 GPR project positions to be funded from the appropriation under section 20.370 (2) (cb) of the statutes, as created by this act, for the purpose of administering solid waste treatment facility operator certification.

(4m) The authorized FTE positions for the department of natural resources are increased on July 1, 1990, by 3.0 SEG positions and 1.0 SEG 3-year project position to be funded from the appropriation under section 20.370 (8) (iw) of the statutes, as created

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by this act, for the purposes of statewide recycling education and administration.

Vetoed  
in Part

~~(4p) The authorized FTE positions for the department of natural resources are increased by 2.0 SEG positions on July 1, 1990, to be funded from the appropriation under section 20.370 (2) (hr) of the statutes, as created by this act, to provide staff support for the council on recycling.~~

(4t) The terms of the initial members of the council on recycling under section 15.347 (17) of the statutes, as created by this act, shall expire as specified under section 15.347 (17) (c) of the statutes despite the length of terms provided under section 15.347 (17) (c) of the statutes.

(5) (a) In this subsection:

1. "Municipality" means a city, village or town.
2. "Population" has the meaning given in section 159.23 (1) (c) of the statutes, as created by this act.
3. "Responsible unit" has the meaning given in section 159.01 (9) of the statutes, as created by this act.

(b) On July 1, 1990, the department of natural resources shall provide to each municipality the amount determined by multiplying the population of the municipality by one-third of the amount of funds appropriated under section 20.370 (4) (cw) of the statutes, as created by this act, for fiscal year 1990-91 and dividing that product by the state's population.

(c) On January 1, 1991, and on June 30, 1991, the department of natural resources shall provide to each responsible unit the amount determined by multiplying the population served by the responsible unit by one-third of the funds appropriated under section 20.370 (4) (cw) of the statutes, as created by this act, for fiscal year 1990-91 and dividing that product by the state's population.

(e) A responsible unit or municipality may expend funds received under this subsection only for expenses, including capital expenses, incurred after June 30, 1990, and before December 31, 1991, for planning, constructing or operating one or more of the components of a solid waste management program specified in section 159.11 (2) (a) to (h) of the statutes, as created by this act, or to enable the responsible unit or municipality to comply with the prohibition under section 159.07 (2) of the statutes, as affected by this act.

(6) Using the procedure under section 227.24 of the statutes, the department of natural resources shall promulgate rules necessary for the administration of those portions of chapter 159 of the statutes, as created by this act, that take effect prior to January 1, 1992. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency. Notwithstanding section 227.24 (1) (c) of the statutes, a rule promulgated under this subsection remains in effect for 12 months unless the rule is extended by the joint committee for review of administrative rules.

(7) It is the intent of the legislature that, beginning in fiscal year 1993-94, the amount appropriated under section 20.370 (4) (cw) of the statutes, as created by this act, for municipal and county grants, be \$29,200,000.

~~(8m) Notwithstanding section 15.347 (18) of the statutes, as created by this act, the members of the council on used oil initially appointed under this act shall serve for terms expiring on July 1, 1991.~~

Vetoed  
in Part

**SECTION 85p. Nonstatutory provisions; revenue.** The authorized FTE positions for the department of revenue are increased by 2.0 SEG 18-month project positions to be funded from the appropriation under section 20.566 (3) (q) of the statutes, as created by this act, for the purpose of providing support services related to recycling fees.

**SECTION 85r. Nonstatutory provisions; university of Wisconsin system.** (1) The authorized FTE positions for the university of Wisconsin system are increased by 4.0 SEG positions on July 1, 1990, to be funded from the appropriation under section 20.285 (1) (tb) of the statutes, as created by this act, for university of Wisconsin-extension educational programs in recycling.

~~(2) The authorized FTE positions for the university of Wisconsin system are increased by 7.0 SEG graduate assistant positions on July 1, 1990, to be funded from the appropriation under section 20.285 (1) (tc) of the statutes, as created by this act, for solid waste disposal research.~~

Vetoed  
in Part

**SECTION 86. Appropriation changes; administration.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation for the department of administration under section 20.505 (1) (a) of the statutes, as affected by the acts of 1989, are increased by \$122,100 for fiscal year 1990-91 for the separation of recyclable materials under section 16.15 of the statutes, as affected by this act; to increase the authorized FTE positions of the department by 1.0 GPR position and to fund 1.0 FTE GPR project position authorized under SECTION 82 (1m) of this act for the development of purchasing specifications for products made from recycled materials and recovered materials under section 16.72 (2) (e) and (f) of the statutes, as affected by this act; and to increase the authorized FTE positions of the department by 0.5 GPR position for maintenance of an information clearinghouse under section 16.72 (6) of the statutes, as created by this act.

**SECTION 86m. Appropriation changes; agriculture, trade and consumer protection.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the department of agriculture, trade and consumer protection under section 20.115 (8) (km) of the statutes, as affected by the acts of 1989, are increased by \$6,500 for fiscal year 1990-91 for laboratory services and the purchase of supplies relating to recyclable and nonrecyclable products regulation.

**SECTION 87. Appropriation changes; industry, labor and human relations.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation for the department of industry, labor and human relations under section 20.445 (1) (j) of the statutes, as affected by the acts of 1989, is increased by \$38,400 for fiscal year 1990-91 to increase the authorized FTE positions of the department by 0.75 PR project position for the period beginning on July 1, 1990, and ending on June 30, 1991, for the implementation of section 101.126 of the statutes, as created by this act.

**SECTION 88. Appropriation changes; natural resources.** (1) The dollar amounts in the schedule under section 20.003 (5) of the statutes for the appropriation to the department of natural resources under section 20.370 (3) (ma) of the statutes is increased by \$75,500 for fiscal year 1990-91 to increase the authorized FTE positions of the department by 1.0 GPR position for regulatory and enforcement operations, and for related costs, under chapter 159 of the statutes, as created by this act.

(2) The unencumbered balance of the appropriation to the department of natural resources under section 20.370 (4) (ce) of the statutes immediately before

the effective date of this subsection is transferred to the appropriation under section 20.370 (4) (ct) of the statutes, as created by this act.

**SECTION 88m. Appropriation changes; university of Wisconsin system.** The dollar amount in the schedule under section 20.005 (3) of the statutes for the appropriation to the board of regents of the university of Wisconsin system under section 20.285 (1) (a) of the statutes, as affected by the acts of 1989, is increased by \$250,000 for fiscal year 1990-91 to fund research, including research into the landfilling of solid waste that cannot be composted, at a cocomposting digester facility for the cocomposting of solid waste and sludge from wastewater treatment facilities that has been operating since at least January 1, 1989.

~~**SECTION 88s. Appropriation changes; other.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the joint committee on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1989, are increased by \$465,000 for fiscal year 1990-91 to fund additional costs incurred by state agencies in purchasing paper, making purchases based on modified specifications and separating materials for recycling in accordance with this act.~~

Vetoed  
in Part

**SECTION 89. Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
20.370 (2)(dj) and (dL)	144.798	159.17
59.07 (133)	144.794	159.13
59.863 (3)(b)	66.299	66.299 (2)
61.345	144.794	159.13
62.225	144.794	159.13
144.449 (1)(c)	84.078 (1)	84.078 (1)(b)
144.449 (3)(f)	144.798 (1)(a)	159.17 (1)(a)
144.52 (1)	144.48 and 144.50	144.50 and 159.15
144.52 (2)(a) and (d)	144.48 or 144.50	144.50 or 159.15
234.01 (4n)(a) 8	144.794 (1)(h)	159.13 (1)(h)
346.02 (10) and (11)	346.94 (1), (6), (6m) and (9)	346.94 (1) and (9)
346.95 (3)	346.94 (5), (6), (6m) or (14)	346.94 (5) or (14)

**SECTION 89n. Initial applicability.** (1) The treatment of sections 144.44 (1c), (1g), (1k), (1m) (b) and (d), (2) (f) 3, 4 and 6 to 8, (7) to (1), (m), (intro), (n) 4, (nn), (nr), (nu) and (om), (2g) (bm), (2r) (bm), (e) and (f) and (2t) and 144.445 (8) (a) 3 and (b) 7 of the statutes first applies to a solid waste disposal facility or a hazardous waste facility for which the applicant submits a feasibility report on the day after the effective date of this subsection.

Vetoed  
in Part

(2) The treatment of section 16.72 (2) (e) of the statutes and the creation of section 16.72 (2) (e) 1 to 7 of the statutes take effect on July 1, 1990.

~~(2e) The treatment of sections 16.72 (2) (g) and 35.50 (5) of the statutes takes effect on the first day of the 7th month commencing after publication.~~

Vetoed  
in Part

~~(2m) The repeal and recreation of section 38.28 (1m) (a) 1 of the statutes takes effect on July 1, 1990.~~

Vetoed  
in Part

**SECTION 90. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 16.15 (2m) of the statutes takes effect on January 1, 1993.

(3) The amendment of section 73.01 (4) (a) of the statutes takes effect on January 1, 1991.

(4) The repeal and recreation of section 73.01 (4) (a) of the statutes takes effect on January 1, 1992.

(5) The treatment of sections 77.51 (1m) and (3m),  
77.52 (2) (a) 6 and 77.54 (40) of the statutes takes  
effect on July 1, 1990.

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