



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1528/4 5

RC/PK/RM/JTK/RN:cjs:kjf

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DOA:.....Currier – Tobacco securitization

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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1 **AN ACT**...; relating to: the sale of the state's right to receive payments under the  
 2 Attorneys General Master Tobacco Settlement Agreement of November 23,  
 3 1998; authorizing the Wisconsin Health and Educational Facilities Authority  
 4 to purchase the state's right to receive such payments and to issue bonds for the  
 5 purchase; and making an appropriation.

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE FINANCE**

On November 23, 1998, Wisconsin and other states agreed to a settlement of lawsuits brought against the major U.S. tobacco product manufacturers (the tobacco settlement agreement). Under the tobacco settlement agreement, the state is to receive annual payments from the U.S. tobacco product manufacturers in perpetuity. This bill authorizes the secretary of administration to sell the state's right to receive payments under the tobacco settlement agreement and provides that the proceeds from this sale are to be deposited in the permanent endowment fund, a nonlapsible trust fund created in the bill.

Under the bill, annually, the secretary of administration must transfer a certain amount of moneys in the permanent endowment fund to the general fund

according to a calculation made by the investment board. The amount available for transfer in each year, as calculated by the investment board, beginning in 2004, must equal the sum of the following:

1. An amount that equals 8.5% of the market value of the investments in the permanent endowment fund on ~~July 1~~ June

2. All proceeds of, and investment earnings on, investments of the permanent endowment fund made at the direction of the secretary of administration that are received in the fiscal year.

3. All other amounts identified by the secretary of administration as payments of residual interests to the state from the sale of the state's right to receive moneys under tobacco settlement agreement that are received in the fiscal year. ~~max~~

The bill provides that the investment board ~~must~~ invest the assets of the permanent endowment fund in any investment that is an authorized investment for assets in the fixed retirement investment trust and the variable retirement trust. In addition, the bill requires the investment board to invest certain of the assets in the permanent endowment fund according to the terms and conditions specified by the secretary of administration; the bill specifically provides that the investment board is not subject to its statutory standard of responsibility when it makes such an investment.

For 2002 and 2003, the amount that is required to be transferred from the permanent endowment fund to the general fund is the amount that the state would have received as payments under the tobacco settlement agreement had the state's right to receive the payments not been sold.

The bill also requires that, in fiscal years 2001-02 and 2002-03, the first \$12,065,200 and \$21,228,000, respectively, in payments from the tobacco settlement agreement are deposited in the tobacco control fund and are appropriated to the tobacco control board for distribution to specific smoking cessation and prevention programs and for grants for smoking cessation education, research, and enforcement programs. In the event that the state's right to receive payments under the tobacco settlement agreement is sold before the required amounts are received in fiscal years 2001-03, the bill requires that a necessary amount be transferred from the general fund to the tobacco control fund to make up any shortfall.

The bill also authorizes the secretary of administration to organize one or more nonstock corporations or limited liability companies for any purpose related to the sale of the state's right to receive payments under the tobacco settlement agreement and appropriates moneys for the organization and initial capitalization of any such corporation or company.

The bill establishes the legal characteristics of any sale, assignment, or transfer of payments under the tobacco settlement agreement. In addition, the bill provides that, with certain exceptions, this state's version of Article 9 of the Uniform Commercial Code governs the granting and enforcing of security interests in those payments. Article 9 generally governs similar transactions. Under the bill, if a person obtains, evidences, and provides notice of an interest in the tobacco settlement agreement payments under the procedure specified in the bill, that interest is enforceable against the debtor, any assignee or grantee, and all third

parties, including creditors under any lien obtained by judicial proceedings. In addition, the interest is superior to all other liens against the tobacco settlement agreement payments that arise after the date on which the interest attaches to those payments.

Currently, DOA is required, subject to numerous exceptions, to make purchases by solicitation of bids or competitive sealed proposals preceded by public notice. DOA must prepare written justification of contractual service procurements and must comply with rules regarding conflicts of interest between contractors and DOA employees. DOA must also attempt to ensure that a specified portion of its procurement business is awarded to minority-owned businesses. This bill exempts contracts entered into by DOA to provide financial services in relation to this state's interest in the tobacco settlement agreement payments from compliance with these requirements.

Currently, with certain exceptions, no person may commence a legal action against the state unless the person presents a claim to the claims board for a recommendation and the legislature denies the claim. This bill exempts claims presented in relation to this state's interest in the tobacco settlement agreement payments from compliance with this requirement.

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational facilities, such as the construction or remodeling of a health or educational facility or related structure, and to refinance outstanding debt of health or educational facilities. Under this bill, WHEFA is authorized to purchase the state's right to receive payments under the tobacco settlement agreement, to make a loan that is secured by the state's right to receive those payments, and to issue bonds to finance the purchase or to make the loan. Any bonds issued to finance the purchase or to make the loan must be payable from, or secured by interests in, the payments under the tobacco settlement agreement. In addition, WHEFA is authorized to organize one or more nonstock corporations or limited liability companies for any purpose related to the purchase or sale of the state's right to receive payments under the tobacco settlement agreement.

This bill affirms the state's participation in the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. In addition, the bill states that the payments received under that agreement are the property of the state, to be used as the state decides by law. The bill provides that no political subdivision of the state, or officer or agent of a political subdivision, may maintain a claim against any party that was released from liability by the state under the agreement. The bill also provides that no political subdivision of the state, or officer or agent of a political subdivision, may maintain a claim against the state or any officer or agent of the state that seeks to avoid or limit the agreement.

*related to the tobacco settlement agreement or any claim against any party that was released from liability by the state under the tobacco settlement agreement.*

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

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

1           **SECTION 1.** 16.519 of the statutes is created to read:

2           **16.519 Fund transfers relating to tobacco settlement agreement. (1)**

3           In this section, "tobacco settlement agreement" means the Attorneys General Master  
4           Tobacco Settlement Agreement of November 23, 1998.

5           (2) Annually, on June 15, beginning in 2004, the secretary shall transfer from  
6           the permanent endowment fund to the general fund an amount equal to the amount  
7           calculated by the investment board under s. 25.17 (16).

8           (3) If the state has not received in fiscal year 2001–02 at least \$12,065,200  
9           under the tobacco settlement agreement, because the secretary, under s. 16.63, has  
10          sold the state's right to receive any of the payments under the tobacco settlement  
11          agreement, the secretary shall transfer from the general fund to the tobacco control  
12          fund an amount equal to \$12,065,200 less any payments received under the tobacco  
13          settlement agreement and deposited in the tobacco control fund in that fiscal year.

14          (4) If the state has not received in fiscal year 2002–03 at least \$21,228,000  
15          under the tobacco settlement agreement, because the secretary, under s. 16.63, has  
16          sold the state's right to receive any of the payments under the tobacco settlement  
17          agreement, the secretary shall transfer from the general fund to the tobacco control  
18          fund an amount equal to \$21,228,000 less any payments received under the tobacco  
19          settlement agreement and deposited in the tobacco control fund in that fiscal year.

20          **SECTION 2.** 16.63 of the statutes is created to read:

1           **16.63 Sale of state's rights to tobacco settlement agreement payments.**

2           (1) In this section:

3           (a) "Purchaser" means any person who has purchased the state's right to  
4 receive any of the payments under the tobacco settlement agreement.

5           (b) "Tobacco settlement agreement" means the Attorneys General Master  
6 Tobacco Settlement Agreement of November 23, 1998.

7           (c) "Tobacco settlement revenues" means the right to receive settlement  
8 payments arising from or pursuant to the tobacco settlement agreement and all  
9 direct or indirect proceeds of that right.

10          (2) The secretary may sell for cash or other consideration the state's right to  
11 receive any of the payments under the tobacco settlement agreement.

12          (3) The secretary may organize one or more nonstock corporations under ch.  
13 181 or limited liability companies under ch. 183 for any purpose related to the sale  
14 of the state's right to receive any of the payments under the tobacco settlement  
15 agreement and may take any action necessary to facilitate and complete the sale.

16          (4) (a) Tobacco settlement revenues may not be deemed proceeds of any  
17 property which is not tobacco settlement revenues.

18          (b) Except as otherwise provided in this subsection, the creation, perfection,  
19 and enforcement of security interests in tobacco settlement revenues are governed  
20 by ch. 409. Notwithstanding ch. 409, with regard to creating, perfecting, and  
21 enforcing a valid security interest in tobacco settlement revenues:

22           1. If this state or the Wisconsin health and educational facilities authority is  
23 the debtor in the transaction, the proper place to file the required financing  
24 statement to perfect the security interest is the department of financial institutions.

SECTION 2

1           2. The required financing statement shall include a description of collateral  
 2 that describes the collateral as general intangibles consisting of the right to receive  
 3 settlement payments arising from or pursuant to the tobacco settlement agreement  
 4 and all proceeds of that right. The required financing statement may include any  
 5 additional description of collateral that is legally sufficient under the laws of this  
 6 state.

7           3. The tobacco settlement revenues are general intangibles for purposes of ch.  
 8 409.

9           4. A security interest perfected under this paragraph is enforceable against the  
 10 debtor, any assignee or grantee, and all third parties, including creditors under any  
 11 lien obtained by judicial proceedings, subject only to the rights of any third parties  
 12 holding security interests in the tobacco settlement revenues previously perfected  
 13 under this paragraph. Unless the applicable security agreement provides otherwise,  
 14 a perfected security interest in the tobacco settlement revenues is a continuously  
 15 perfected security interest in all tobacco settlement revenues existing on the date of  
 16 the agreement or arising after the date of the agreement. A security interest  
 17 perfected under this paragraph has priority over any other lien ~~including any lien~~  
 18 ~~obtained by judicial proceedings~~ which subsequently attaches to the tobacco  
 19 settlement revenues.

*created by operation of law or otherwise*

20           5. The priority of a security interest created under this paragraph is not  
 21 affected by the commingling of proceeds arising from the tobacco settlement  
 22 revenues with other amounts.

23           (c) The sale, assignment, and transfer of tobacco settlement revenues are  
 24 governed by this paragraph. All of the following apply to a sale, assignment, or  
 25 transfer under this paragraph:

1           1. The sale, assignment, or transfer is an absolute transfer of, and not a pledge  
2 of or secured transaction relating to, the seller's right, title, and interest in, to, and  
3 under the tobacco settlement revenues, if the documents governing the transaction  
4 expressly state that the transaction is a sale or other absolute transfer. After such  
5 a transaction, the tobacco settlement revenues are not subject to any claims of the  
6 seller or the seller's creditors, other than creditors holding a prior security interest  
7 in the tobacco settlement revenues perfected under ~~sub. (4)(b)~~ par. ✓

8           2. The characterization of the sale, assignment, or transfer as an absolute  
9 transfer under subd. 1 and the corresponding characterization of the purchaser's  
10 property interest is not affected by any of the following factors:

11           a. Commingling of amounts arising with respect to the tobacco settlement  
12 revenues with other amounts.

13           b. The retention by the seller of a partial or residual interest, including an  
14 equity interest, in the tobacco settlement revenues, whether direct or indirect, or  
15 whether subordinate or otherwise. , assignment, or transfer ✓

16           c. The sale of only a portion of the tobacco settlement revenues or an undivided  
17 interest in the tobacco settlement revenues.

18           d. Any recourse that the purchaser or its assignees may have against the seller.

19           e. Whether the seller is responsible for collecting payments due under the  
20 tobacco settlement revenues or for otherwise enforcing any of the tobacco settlement  
21 revenues or retains legal title to the tobacco settlement revenues for the purpose of  
22 these collection activities.

23           f. The treatment of the sale, assignment, or transfer for tax purposes.

24           3. The sale, assignment, or transfer is perfected automatically as against third  
25 parties, including any ~~judicial lien creditors~~ upon attachment under ch. 409.

third parties with liens created by operation of law or otherwise

1           4. Nothing in this subsection precludes consideration of the factors listed in  
2           subd. 2. a. to e. in determining whether the sale, assignment, or transfer is a sale for  
3           tax purposes. The characterization of the sale, assignment, or transfer as an  
4           absolute transfer under subd. 1. may not be considered in determining whether the  
5           sale, assignment, or transfer is a sale for tax purposes.

6           (5) If the secretary sells the state's right to receive any of the payments under  
7           the tobacco settlement agreement, the state pledges to and agrees with any  
8           purchaser or subsequent transferee of the state's right to receive any of the payments  
9           under the tobacco settlement agreement that the state will not limit or alter its  
10          powers to fulfill the terms of the tobacco settlement agreement, nor will the state in  
11          any way impair the rights and remedies provided under the tobacco settlement  
12          agreement. The state also pledges to and agrees with any purchaser or subsequent  
13          transferee of the state's right to receive any of the payments under the tobacco  
14          settlement agreement that the state will pay all costs and expenses in connection  
15          with any action or proceeding brought by or on behalf of the purchaser or any  
16          subsequent transferee related to the state's not fulfilling the terms of the tobacco  
17          settlement agreement. The secretary may include this pledge and agreement of the  
18          state in any contract that is entered into by the secretary under this section.

19          (6) If the secretary sells the state's right to receive any of the payments under  
20          the tobacco settlement agreement, the state pledges to and agrees with any  
21          purchaser or subsequent transferee of the state's right to receive any of the payments  
22          under the tobacco settlement agreement that the state will not limit or alter the  
23          powers of the secretary under this section until any contract that is entered into  
24          under this section is fully performed, unless adequate provision is made by law for  
25          the protection of the rights and remedies of the purchaser or any subsequent

1 transferee under the contract. The secretary may include this pledge and agreement  
2 of the state in any contract that is entered into by the secretary under this section.

3 (7) The secretary may enter into a contract with any firm or individual engaged  
4 in providing financial services for the performance of any of his or her functions  
5 under this section, using selection and procurement procedures established by the  
6 secretary. That contract is not subject to s. 16.705 or 16.75.

7 (8) This subsection and subs. (8m) and (9) shall govern all civil claims, suits,  
8 proceedings, and actions brought against the state relating to the sale of the state's  
9 right to receive any of the payments under the tobacco settlement agreement. If the  
10 state fails to comply with this section or the terms of any agreement relating to the  
11 sale of the state's right to receive any of the payments under the tobacco settlement  
12 agreement, an action to compel compliance may be commenced against the state.

13 (8m) If the recovery of a money judgment against the state is necessary to give  
14 the plaintiff in an action under sub. (8) complete relief, a claim for the money  
15 damages may be joined with the claim commenced under sub. (8).

16 (9) Sections 16.007, 16.53, and 775.01 do not apply to claims against the state  
17 under sub. (8) or (8m). If there is a final judgment against the state in such an action,  
18 the judgment shall be paid as provided in s. 775.04 together with interest at the rate  
19 of 10% per year from the date such payment was judged to have been due until the  
20 date of payment of the judgment.

21 **SECTION 3.** 20.505 (1) (dm) of the statutes is created to read:

22 20.505 (1) (dm) *Sale of tobacco settlement payments.* A sum sufficient to pay  
23 the costs incurred by the secretary of administration in any sale of the state's right  
24 to receive any of the payments under the tobacco settlement agreement under s.

1 16.63 (2) and in organizing and initially capitalizing any corporation or company  
2 under s. 16.63 (3).

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

3 SECTION 4. 20.876 of the statutes is created to read:

4 **20.876 Permanent endowment fund. (1) TRANSFERS FROM FUND.** There is  
5 appropriated from the permanent endowment fund to the general fund:

6 (a) *Transfer to general fund.* The amounts in the schedule to be transferred to  
7 the general fund.

8 (b) *Transfer to general fund based on market value of investments, earnings on*  
9 *investments, and payments of residual interests.* A sum sufficient equal to the  
10 amount that is required to be transferred to the general fund under s. 16.519 (2).

11 (c) *Transfer to general fund; 2001-02 fiscal year.* The amounts in the schedule  
12 to be transferred to the general fund no later than June 30, 2002, except that the  
13 amounts in the schedule shall be reduced by any payments under the Attorneys  
14 General Master Tobacco Settlement Agreement of November 23, 1998, that are  
15 received by the state in fiscal year 2001-02.

16 (d) *Transfer to general fund; 2002-03 fiscal year.* The amounts in the schedule  
17 to be transferred to the general fund no later than June 30, 2003, except that the  
18 amounts in the schedule shall be reduced by any payments under the Attorneys  
19 General Master Tobacco Settlement Agreement of November 23, 1998, that are  
20 received by the state in fiscal year 2002-03.

21 SECTION 5. 20.876 (1) (a) of the statutes, as created by 2001 Wisconsin Act ....  
22 (this act), is repealed.

Insert 11-5

1 SECTION 6. 20.876 (1) (c) of the statutes, as created by 2001 Wisconsin Act ...  
2 (this act), is repealed.

3 SECTION 7. 20.876 (1) (d) of the statutes, as created by 2001 Wisconsin Act ...  
4 (this act), is repealed.

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

5 SECTION 8. 25.14 (1) (a) 15. of the statutes is created to read:

6 25.14 (1) (a) 15. The permanent endowment fund.

7 SECTION 9. 25.15 (2) (intro.) of the statutes is amended to read:

8 25.15 (2) STANDARD OF RESPONSIBILITY. (intro.) The Except as provided in s.  
9 25.17 (5m) (b), the standard of responsibility applied to the board when it invests  
10 money or property shall be all of the following:

11 SECTION 10. 25.17 (1) (kr) of the statutes is created to read:

12 25.17 (1) (kr) Permanent endowment fund (s. 25.69);

13 SECTION 11. ~~25.17 (5m)~~ of the statutes is created to read:

14 ~~25.17 (5m) (a)~~ <sup>25.18 (1) (o)</sup> Invest any of the assets of the permanent endowment fund in  
15 any investment that is an authorized investment for assets in the fixed retirement  
16 investment trust under ~~sub (4)~~ <sup>25.18 (1) (o)</sup> or assets in the variable retirement investment trust  
17 under ~~sub (5)~~ <sup>s. 25.17</sup>.

18 ~~(b) 1.~~ <sup>s. 25.17 (b)</sup> If directed by the secretary of administration, invest any of the assets in  
19 the permanent endowment fund in any of the following:  
<sup>25.18 (1) (p)</sup>

20 a. Evidences of indebtcdness, including subordinated obligations, that are  
21 secured by tobacco settlement revenues, as defined in s. 16.63 (1) (c), and that are  
22 issued by a corporation or company established under s. 16.63 (3) or 231.215 or by  
23 the Wisconsin health and educational facilities authority.

1 SEC. # 25.18 (1) (p) of the statutes is created to read:

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1 b. Certificates or other evidences of ownership interest in all or any portion of  
2 tobacco settlement revenues, as defined in s. 16.63 (1) (c).

3 2. If directed by the secretary of administration to make the investments under  
4 subd. 1., the board shall invest the assets under that subdivision subject to any terms  
5 and conditions specified by the secretary and shall not be subject to the standard of  
6 responsibility under s. 25.15 (2).

7 SECTION 12. 25.17 (16) of the statutes is created to read:

8 25.17 (16) (a) Annually, after June 1 but not later than June 15, beginning in  
9 2004, calculate the amount of moneys that are available in the permanent  
10 endowment fund for transfer to the general fund under s. 16.519. For the purpose  
11 of this calculation, moneys that are available in the permanent endowment fund for  
12 transfer to the general fund shall equal the sum of the following:

13 1. An amount that equals 8.5% of the market value of the investments in the  
14 permanent endowment fund on June 1. For the purpose of making the calculation  
15 under this subdivision, the board shall not include any amounts specified in subds.

16 2. and 3.

*or investments*

17 2. All proceeds of, and investment earnings on, investments of the permanent  
18 endowment fund made at the direction of the secretary of administration under s.  
19 ~~25.17(5)(a)~~ <sup>25.18(1)(p) ✓</sup> that are received in the fiscal year.

20 3. All other amounts identified by the secretary of administration as payments  
21 of residual interests to the state from the sale of the state's right to receive payments  
22 under the Attorncoys General Master Tobacco Settlement Agreement of November  
23 23, 1998, that are received in the fiscal year.

24 (b) Annually, beginning in 2004, submit to the secretary of administration and  
25 to the chief clerk of each house, for distribution to the appropriate standing

1 committees under s. 13.172 (3), a report specifying the amount of moneys that are  
2 available in the permanent endowment fund for transfer to the general fund under  
3 s. 16.519.

4 **SECTION 13.** 25.66 (1) of the statutes is repealed and recreated to read:

5 25.66 (1) There is created a separate nonlapsible trust fund, known as the  
6 tobacco control fund, to consist of, in fiscal year 2001–02, the first \$12,065,200 of the  
7 moneys received under the Attorneys General Master Tobacco Settlement  
8 Agreement of November 23, 1998, in that year, and, in fiscal year 2002–03, the first  
9 \$21,228,000 of the moneys received under the Attorneys General Master Tobacco  
10 Settlement Agreement of November 23, 1998, in that year, except as provided in sub.  
11 (1m).

12 **SECTION 14.** 25.66 (1m) of the statutes is created to read:

13 25.66 (1m) (a) If the state has not received in fiscal year 2001–02 at least  
14 \$12,065,200 under the Attorneys General Master Tobacco Settlement Agreement of  
15 November 23, 1998, because the secretary of administration, under s. 16.63, has sold  
16 the state's right to receive payments under the Agreement, the tobacco control fund  
17 shall also consist of any moneys transferred to the tobacco control fund from the  
18 general fund under s. 16.519 (3).

19 (b) If the state has not received in fiscal year 2002–03 at least \$21,228,000  
20 under the Attorneys General Master Tobacco Settlement Agreement of  
21 November 23, 1998, because the secretary of administration, under s. 16.63, has sold  
22 the state's right to receive payments under the Agreement, the tobacco control fund  
23 shall also consist of any moneys transferred to the tobacco control fund from the  
24 general fund under s. 16.519 (4).

25 **SECTION 15.** 25.69 of the statutes is created to read:

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page 11/12

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1           **25.69 Permanent endowment fund.** There is established a separate  
 2 nonlapsible trust fund designated as the permanent endowment fund, consisting of  
 3 all of the proceeds from the sale of the state's right to receive payments under the  
 4 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,  
 5 and all investment earnings on the proceeds. Moneys in the permanent endowment  
 6 fund shall be used only to make the transfers under s. ~~20.875(1)~~ 20.855(4) (rc), (rh),  
 (rp), and (rv) ✓

6  
7

SECTION 16. 231.01 (9) of the statutes is amended to read:

8           231.01 (9) "Revenues" means, with respect to any project, the rents, fees,  
 9 charges, and other income or profit derived therefrom and, with respect to any bonds  
 10 issued under s. 231.03 (6) (g), tobacco settlement revenues identified in the bond  
 11 resolution.

SECTION 17. 231.01 (11) of the statutes is created to read:

13           231.01 (11) "Tobacco settlement agreement" has the meaning given in s. 16.63  
 14 (1) (b).

SECTION 18. 231.01 (12) of the statutes is created to read:

16           231.01 (12) "Tobacco settlement revenues" has the meaning given in s. 16.63  
 17 (1) (c).

SECTION 19. 231.03 (6) (g) of the statutes is created to read:

19           231.03 (6) (g) Finance a purchase, or make a loan, under sub. (20). Bonds  
 20 issued under this paragraph shall be payable from, or secured by interests in, tobacco  
 21 settlement revenues and such other property pledged under the bond resolution and,  
 22 notwithstanding s. 231.08 (3), are not required to mature in 30 years or less from the  
 23 date of issue.

SECTION 20. 231.03 (20) of the statutes is created to read:

24

1           **231.03 (20)** Purchase the state's right to receive any of the payments under the  
2 tobacco settlement agreement, or make a loan to be secured by the state's right to  
3 receive any of the payments under the tobacco settlement agreement, upon such  
4 terms and at such prices as the authority considers reasonable and as can be agreed  
5 upon between the authority and the other party to the transaction. The authority  
6 may issue certificates or other evidences of ownership interest in tobacco settlement  
7 revenues upon such terms and conditions as specified by the authority in the  
8 resolution under which the certificates or other evidences are issued or in a related  
9 trust agreement or trust indenture.

10           **SECTION 21.** 231.09 of the statutes is amended to read:

11           **231.09 Bond security.** The authority may secure any bonds issued under this  
12 chapter by a trust agreement, trust indenture, indenture of mortgage, or deed of  
13 trust by and between the authority and one or more corporate trustees, which may  
14 be any trust company or bank ~~in this state~~ having the powers of a trust company. The  
15 bond resolution providing for the issuance of bonds so secured shall pledge the  
16 revenues to be received by the authority as a result of the terms of the financing  
17 referred to in the resolution, and may contain such provisions for protecting and  
18 enforcing the rights and remedies of the bondholders as are reasonable and proper  
19 and not in violation of law, including particularly such provisions as are specifically  
20 authorized by this chapter to be included in any bond resolution of the authority, and  
21 may restrict the individual right of action by bondholders. In addition, any bond  
22 resolution may contain such other provisions as the authority deems reasonable and  
23 proper for the security of the bondholders. All expenses incurred in carrying out the  
24 provisions of the bond resolution may be treated as a part of the cost of the operation  
25 of a project.

1           **SECTION 22.** 231.16 (1) of the statutes is amended to read:

2           231.16 (1) The authority may issue bonds to refund any outstanding bond of  
3 the authority or indebtedness that a participating health institution, participating  
4 educational institution, or participating child care provider may have incurred for  
5 the construction or acquisition of a project prior to or after April 30, 1980, including  
6 the payment of any redemption premium on the outstanding bond or indebtedness  
7 and any interest accrued or to accrue to the earliest or any subsequent date of  
8 redemption, purchase, or maturity, or to pay all or any part of the cost of constructing  
9 and acquiring additions, improvements, extensions, or enlargements of a project or  
10 any portion of a project. ~~No~~ Except for bonds to refund bonds issued under s. 231.03  
11 (6) (g), no bonds may be issued under this section unless the authority has first  
12 entered into a new or amended agreement with a participating health institution,  
13 participating educational institution, or participating child care provider to provide  
14 sufficient revenues to pay the costs and other items described in s. 231.13.

15           **SECTION 23.** 231.16 (3) of the statutes is amended to read:

16           231.16 (3) All bonds issued under this section shall be subject to this chapter  
17 in the same manner and to the same extent as other bonds issued pursuant to this  
18 chapter, except that the limitations with respect to dates under s. 231.03 (6) (e) and  
19 (f) and (14) do not apply to bonds issued under this section, and the requirement  
20 under s. 231.08 (3) that the bonds mature in 30 years or less from their date of issue  
21 does not apply to bonds issued under this section to refund bonds issued under s.  
22 231.03 (6) (g).

23           **SECTION 24.** 231.215 of the statutes is created to read:

24           **231.215** Incorporator for purpose related to purchase <sup>③ or sale</sup> of right to  
25 payments. The authority, or its executive director, may organize one or more

1 nonstock corporations under ch. 181 or limited liability companies under ch. 183 for  
2 any purpose related to purchasing or selling the state's right to receive any of the  
3 payments under the tobacco settlement agreement and may take any action  
4 necessary to facilitate and complete the purchase or sale.

5 SECTION 25. 409.102 (1) (intro.) of the statutes is amended to read:

6 409.102 (1) (intro.) Except as otherwise provided in s. 409.104 on excluded  
7 transactions and s. 16.63 (4) on transactions involving tobacco settlement revenues,  
8 this chapter applies:

9 SECTION 26. 895.11 of the statutes is created to read:

10 **895.11 Payments under the tobacco settlement agreement.** (1) In this  
11 section, "tobacco settlement agreement" means the Attorneys General Master  
12 Tobacco Settlement Agreement of November 23, 1998.

13 (2) The state's participation in the tobacco settlement agreement is affirmed.

14 (3) All payments received and to be received by the state under the tobacco  
15 settlement agreement are the property of the state, to be used as provided by law,  
16 including a sale <sup>assignment, or transfer</sup> of the right to receive the payments under s. 16.63. No political  
17 subdivision of the state, and no officer or agent of any political subdivision of the  
18 state, shall have or seek to maintain any claim related to the tobacco settlement  
19 agreement or any claim against any party that was released from liability by the  
20 state under the tobacco settlement agreement.

21 SECTION 9459. Effective dates; other.

22 (1) SALE OF TOBACCO SETTLEMENT REVENUES. The repeal of sections 20.876 (1) (a),  
23 (c), and (d) of the statutes takes effect on July 1, 2003.

24

(END)

20.855(4) (rc), (rp), and (rv)

amendment of section 25.69 and the

of the statutes

**2001-2002 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1528/5insrc  
RAC::

**Insert 11-5:**

**SECTION 1.** 20.855 (4) (rc) of the statutes is created to read:

20.855 (4) (rc) *Transfer to general fund.* From the permanent endowment fund, the amounts in the schedule to be transferred to the general fund.

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

**SECTION 2.** 20.855 (4) (rc) of the statutes, as created by 2001 Wisconsin Act ... (this act), is repealed.

**SECTION 3.** 20.855 (4) (rh) of the statutes is created to read:

20.855 (4) (rh) *Transfer to general fund based on market value of investments, earnings on investments, and payments of residual interests.* From the permanent endowment fund, *to be transferred to the general fund,* a sum sufficient equal to the amount that is required to be transferred to the general fund under s. 16.519 (2).

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

**SECTION 4.** 20.855 (4) (rp) of the statutes is created to read:

20.855 (4) (rp) *Transfer to general fund; 2001-02 fiscal year.* From the permanent endowment fund, the amounts in the schedule to be transferred to the general fund no later than June 30, 2002, except that the amounts in the schedule shall be reduced by any payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998, that are received by the state in fiscal year 2001-02.

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

**SECTION 5.** 20.855 (4) (rp) of the statutes, as created by 2001 Wisconsin Act ... (this act), is repealed.

1           **SECTION 6.** 20.855 (4) (rv) of the statutes is created to read:

2           20.855 (4) (rv) *Transfer to general fund; 2002-03 fiscal year.* From the  
3 permanent endowment fund, the amounts in the schedule to be transferred to the  
4 general fund no later than June 30, 2003, except that the amounts in the schedule  
5 shall be reduced by any payments under the Attorneys General Master Tobacco  
6 Settlement Agreement of November 23, 1998, that are received by the state in fiscal  
7 year 2002-03.

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

8           **SECTION 7.** 20.855 (4) (rv) of the statutes, as created by 2001 Wisconsin Act ....  
9 (this act), is repealed.

10           **Insert 14-7:**

11           **SECTION 8.** 25.69 of the statutes, as created by 2001 Wisconsin Act .... (this act),  
12 is amended to read:

13           **25.69 Permanent endowment fund.** There is established a separate  
14 nonlapsible trust fund designated as the permanent endowment fund, consisting of  
15 all of the proceeds from the sale of the state's right to receive payments under the  
16 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,  
17 and all investment earnings on the proceeds. Moneys in the permanent endowment  
18 fund shall be used only to make the transfers under s. 20.855 (4) ~~(re)~~, ~~(rh)~~, ~~(rp)~~, and  
19 ~~(rv)~~.

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

LRB-1528/5dnrc

RAC:†.....

95

**Frank Hoadley:**

In addition to renumbering the s. 20.876 appropriations to be s. 20.855 appropriations, I also renumbered s. 25.17 (5m) (a) and (b) to be 25.18 (1) (o) and (p). The reason is that s. 25.18 (1) (intro.) authorizes the investment board to make these investments, but does not require the investment board to do so. In contrast, s. 25.17 (intro.) would have required the investment board to make the investments.

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

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

LRB-1528/5dn  
RAC:cjs:pg

February 2, 2001

Frank Hoadley:

In addition to renumbering the s. 20.876 appropriations to be s. 20.855 appropriations, I also renumbered s. 25.17 (5m) (a) and (b) to be 25.18 (1) (o) and (p). The reason is that s. 25.18 (1) (intro.) authorizes the investment board to make these investments, but does not require the investment board to do so. In contrast, s. 25.17 (intro.) would have required the investment board to make the investments.

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

## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Friday, February 02, 2001 4:28 PM  
**To:** Hoadley, Frank  
**Subject:** LRB 01-1528/5



01-1528/5



01-1528/5dn

*Mike Barman*

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

## Champagne, Rick

---

**From:** Hoadley, Frank  
**Sent:** Saturday, February 03, 2001 2:34 PM  
**To:** Champagne, Rick  
**Subject:** FW: title of ongoing 8.5% appropriation

Rick -

One more (non-substantive) change.

Frank

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

**From:** Ziegler, Paul  
**Sent:** Saturday, February 3, 2001 1:21 PM  
**To:** Hoadley, Frank  
**Subject:** title of ongoing 8.5% appropriation

Frank -- please contact the LRB to make the following change to the tobacco securitization draft:

Page 10 lines 20 and 21 of LRB1528/5 -- Change the title of appropriation s.20.855(4)(rh) from "Transfer to general fund based on market value of investments, earnings on investments, and payments of residual interests" to "Annual transfer from permanent endowment fund to general fund"

The current title is too long to fit into our budget systems without truncating the title.

Thank you.



D-Note  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1528/5-6

RC/PK/RM/JTK/RN:cjs: ~~RM~~

Today

↑  
STAYS  
RMR

DOA:.....Currier – Tobacco securitization

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DO NOT GEN

1 AN ACT *to repeal* 20.855 (4) (rc), 20.855 (4) (rp) and 20.855 (4) (rv); *to amend*  
2 25.15 (2) (intro.), 25.69, 231.01 (9), 231.09, 231.16 (1), 231.16 (3) and 409.102  
3 (1) (intro.); *to repeal and recreate* 25.66 (1); and *to create* 16.519, 16.63,  
4 20.505 (1) (dm), 20.855 (4) (rc), 20.855 (4) (rh), 20.855 (4) (rp), 20.855 (4) (rv),  
5 25.14 (1) (a) 15., 25.17 (1) (kr), 25.17 (16), 25.18 (1) (o), 25.18 (1) (p), 25.66 (1m),  
6 25.69, 231.01 (11), 231.01 (12), 231.03 (6) (g), 231.03 (20), 231.215 and 895.11  
7 of the statutes; **relating to:** the sale of the state's right to receive payments  
8 under the Attorneys General Master Tobacco Settlement Agreement of  
9 November 23, 1998; authorizing the Wisconsin Health and Educational

- 1 Facilities Authority to purchase the state's right to receive such payments and  
2 to issue bonds for the purchase; and making an appropriation.
- 

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE FINANCE**

On November 23, 1998, Wisconsin and other states agreed to a settlement of lawsuits brought against the major U.S. tobacco product manufacturers (the tobacco settlement agreement). Under the tobacco settlement agreement, the state is to receive annual payments from the U.S. tobacco product manufacturers in perpetuity. This bill authorizes the secretary of administration to sell the state's right to receive payments under the tobacco settlement agreement and provides that the proceeds from this sale are to be deposited in the permanent endowment fund, a nonlapsible trust fund created in the bill.

Under the bill, annually, the secretary of administration must transfer a certain amount of moneys in the permanent endowment fund to the general fund according to a calculation made by the investment board. The amount available for transfer in each year, as calculated by the investment board, beginning in 2004, must equal the sum of the following:

1. An amount that equals 8.5% of the market value of the investments in the permanent endowment fund on June 1.
2. All proceeds of, and investment earnings on, investments of the permanent endowment fund made at the direction of the secretary of administration that are received in the fiscal year.
3. All other amounts identified by the secretary of administration as payments of residual interests to the state from the sale of the state's right to receive moneys under tobacco settlement agreement that are received in the fiscal year.

The bill provides that the investment board may invest the assets of the permanent endowment fund in any investment that is an authorized investment for assets in the fixed retirement investment trust and the variable retirement trust. In addition, the bill requires the investment board to invest certain of the assets in the permanent endowment fund according to the terms and conditions specified by the secretary of administration; the bill specifically provides that the investment board is not subject to its statutory standard of responsibility when it makes such an investment.

For 2002 and 2003, the amount that is required to be transferred from the permanent endowment fund to the general fund is the amount that the state would have received as payments under the tobacco settlement agreement had the state's right to receive the payments not been sold.

The bill also requires that, in fiscal years 2001–02 and 2002–03, the first \$12,065,200 and \$21,228,000, respectively, in payments from the tobacco settlement agreement are deposited in the tobacco control fund and are appropriated to the tobacco control board for distribution to specific smoking cessation and prevention

programs and for grants for smoking cessation education, research, and enforcement programs. In the event that the state's right to receive payments under the tobacco settlement agreement is sold before the required amounts are received in fiscal years 2001-03, the bill requires that a necessary amount be transferred from the general fund to the tobacco control fund to make up any shortfall.

The bill also authorizes the secretary of administration to organize one or more nonstock corporations or limited liability companies for any purpose related to the sale of the state's right to receive payments under the tobacco settlement agreement and appropriates moneys for the organization and initial capitalization of any such corporation or company.

The bill establishes the legal characteristics of any sale, assignment, or transfer of payments under the tobacco settlement agreement. In addition, the bill provides that, with certain exceptions, this state's version of Article 9 of the Uniform Commercial Code governs the granting and enforcing of security interests in those payments. Article 9 generally governs similar transactions. Under the bill, if a person obtains, evidences, and provides notice of an interest in the tobacco settlement agreement payments under the procedure specified in the bill, that interest is enforceable against the debtor, any assignee or grantee, and all third parties, including creditors under any lien obtained by judicial proceedings. In addition, the interest is superior to all other liens against the tobacco settlement agreement payments that arise after the date on which the interest attaches to those payments.

Currently, DOA is required, subject to numerous exceptions, to make purchases by solicitation of bids or competitive sealed proposals preceded by public notice. DOA must prepare written justification of contractual service procurements and must comply with rules regarding conflicts of interest between contractors and DOA employees. DOA must also attempt to ensure that a specified portion of its procurement business is awarded to minority-owned businesses. This bill exempts contracts entered into by DOA to provide financial services in relation to this state's interest in the tobacco settlement agreement payments from compliance with these requirements.

Currently, with certain exceptions, no person may commence a legal action against the state unless the person presents a claim to the claims board for a recommendation and the legislature denies the claim. This bill exempts claims presented in relation to this state's interest in the tobacco settlement agreement payments from compliance with this requirement.

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational facilities, such as the construction or remodeling of a health or educational facility or related structure, and to refinance outstanding debt of health or educational facilities. Under this bill, WHEFA is authorized to purchase the state's right to receive payments under the tobacco settlement agreement, to make a loan that is secured by the state's right to receive those payments, and to issue bonds to finance the purchase or to make the loan. Any bonds issued to finance the purchase or to make the loan must be payable from, or secured by interests in, the payments under

the tobacco settlement agreement. In addition, WHEFA is authorized to organize one or more nonstock corporations or limited liability companies for any purpose related to the purchase or sale of the state's right to receive payments under the tobacco settlement agreement.

This bill affirms the state's participation in the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. In addition, the bill states that the payments received under that agreement are the property of the state, to be used as the state decides by law. The bill provides that no political subdivision of the state, or officer or agent of a political subdivision, may maintain a claim against any party that was released from liability by the state under the agreement. The bill also provides that no political subdivision of the state, or officer or agent of a political subdivision, may maintain a claim related to the tobacco settlement agreement or any claim against any party that was released from liability by the state under the tobacco settlement agreement.

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

---

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

1           SECTION 1. 16.519 of the statutes is created to read:

2           **16.519 Fund transfers relating to tobacco settlement agreement. (1)**

3           In this section, "tobacco settlement agreement" means the Attorneys General Master  
4           Tobacco Settlement Agreement of November 23, 1998.

5           (2) Annually, on June 15, beginning in 2004, the secretary shall transfer from  
6           the permanent endowment fund to the general fund an amount equal to the amount  
7           calculated by the investment board under s. 25.17 (16).

8           (3) If the state has not received in fiscal year 2001-02 at least \$12,065,200  
9           under the tobacco settlement agreement, because the secretary, under s. 16.63, has  
10          sold the state's right to receive any of the payments under the tobacco settlement  
11          agreement, the secretary shall transfer from the general fund to the tobacco control  
12          fund an amount equal to \$12,065,200 less any payments received under the tobacco  
13          settlement agreement and deposited in the tobacco control fund in that fiscal year.

1 (9) Sections 16.007, 16.53, and 775.01 do not apply to claims against the state  
2 under sub. (8) or (8m). If there is a final judgment against the state in such an action,  
3 the judgment shall be paid as provided in s. 775.04 together with interest at the rate  
4 of 10% per year from the date such payment was judged to have been due until the  
5 date of payment of the judgment.

6 SECTION 3. 20.505 (1) (dm) of the statutes is created to read:

7 20.505 (1) (dm) *Sale of tobacco settlement payments.* A sum sufficient to pay  
8 the costs incurred by the secretary of administration in any sale of the state's right  
9 to receive any of the payments under the tobacco settlement agreement under s.  
10 16.63 (2) and in organizing and initially capitalizing any corporation or company  
11 under s. 16.63 (3).

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

12 SECTION 4. 20.855 (4) (rc) of the statutes is created to read:

13 20.855 (4) (rc) *Transfer to general fund.* From the permanent endowment fund,  
14 the amounts in the schedule to be transferred to the general fund.

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

17 SECTION 5. 20.855 (4) (rc) of the statutes, as created by 2001 Wisconsin Act ....  
18 (this act), is repealed.

19 SECTION 6. 20.855 (4) (rh) of the statutes is created to read:

20 20.855 (4) (rh) ~~*Transfer to general fund based on market value of investments,*~~  
21 ~~*earnings on investments, and payments of residual interests.*~~ From the permanent  
22 endowment fund, to be transferred to the general fund, a sum sufficient equal to the  
23 amount that is required to be transferred to the general fund under s. 16.519 (2).

Annual transfer from permanent endowment fund to general fund



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

LRB-1528/6dn

RAC./.....

WJ

The only change in this version of the draft, as you requested, is the change in the title to s. 20.855 (4) (rh); otherwise, everything else remains the same.

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

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

LRB-1528/6dn  
RAC:wlj:pg

February 4, 2001

The only change in this version of the draft, as you requested, is the change in the title to s. 20.855 (4) (rh); otherwise, everything else remains the same.

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

## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Sunday, February 04, 2001 12:10 PM  
**To:** Hoadley, Frank  
**Subject:** LRB 01-1528/6



01-1528/6dn



01-1528/6

*Mike Barman*

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703



D-Note  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1528/8 7  
RC/PK/RM/JTK/RN:cjs:pg

Sean

RMR

DOA:.....Currier – Tobacco securitization

FOR 2001 03 BUDGET — NOT READY FOR INTRODUCTION

DO not gen

1 AN ACT *to repeal* ~~20.855 (4) (rc), 20.855 (4) (rp) and 20.855 (4) (rv); to amend~~  
2 ~~25.15 (2) (intro.), 25.69, 231.01 (9), 231.09, 231.16 (1), 231.16 (3) and 409.102~~  
3 ~~(1) (intro.); to repeal and recreate 25.66 (1); and to create 16.519, 16.63,~~  
4 ~~20.505 (1) (dm), 20.855 (4) (rc), 20.855 (4) (rh), 20.855 (4) (rp), 20.855 (4) (rv),~~  
5 ~~25.14 (1) (a) 15, 25.17 (1) (kr), 25.17 (16), 25.18 (1) (o), 25.18 (1) (p), 25.66 (1m),~~  
6 ~~25.69, 231.01 (11), 231.01 (12), 231.03 (6) (g), 231.03 (20), 231.215 and 895.11~~  
7 ~~of the statutes; relating to: the sale of the state's right to receive payments~~  
8 ~~under the Attorneys General Master Tobacco Settlement Agreement of~~  
9 ~~November 23, 1998; authorizing the Wisconsin Health and Educational~~

- 1 Facilities Authority to purchase the state's right to receive such payments and  
2 to issue bonds for the purchase; and making an appropriation.
- 

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE FINANCE**

On November 23, 1998, Wisconsin and other states agreed to a settlement of lawsuits brought against the major U.S. tobacco product manufacturers (the tobacco settlement agreement). Under the tobacco settlement agreement, the state is to receive annual payments from the U.S. tobacco product manufacturers in perpetuity. This bill authorizes the secretary of administration to sell the state's right to receive payments under the tobacco settlement agreement and provides that the proceeds from this sale are to be deposited in the permanent endowment fund, a nonlapsible trust fund created in the bill.

Under the bill, annually, the secretary of administration must transfer a certain amount of moneys in the permanent endowment fund to the general fund according to a calculation made by the investment board. The amount available for transfer in each year, as calculated by the investment board, beginning in 2004, must equal the sum of the following:

1. An amount that equals 8.5% of the market value of the investments in the permanent endowment fund on June 1.
2. All proceeds of, and investment earnings on, investments of the permanent endowment fund made at the direction of the secretary of administration that are received in the fiscal year.
3. All other amounts identified by the secretary of administration as payments of residual interests to the state from the sale of the state's right to receive moneys under tobacco settlement agreement that are received in the fiscal year.

The bill provides that the investment board may invest the assets of the permanent endowment fund in any investment that is an authorized investment for assets in the fixed retirement investment trust and the variable retirement trust. In addition, the bill requires the investment board to invest certain of the assets in the permanent endowment fund according to the terms and conditions specified by the secretary of administration; the bill specifically provides that the investment board is not subject to its statutory standard of responsibility when it makes such an investment.

For 2002 and 2003, the amount that is required to be transferred from the permanent endowment fund to the general fund is the amount that the state would have received as payments under the tobacco settlement agreement had the state's right to receive the payments not been sold.

The bill also requires that, in fiscal years 2001–02 and 2002–03, the first \$12,065,200 and \$21,228,000, respectively, in payments from the tobacco settlement agreement are deposited in the tobacco control fund and are appropriated to the tobacco control board for distribution to specific smoking cessation and prevention

programs and for grants for smoking cessation education, research, and enforcement programs. In the event that the state's right to receive payments under the tobacco settlement agreement is sold before the required amounts are received in fiscal years 2001-03, the bill requires that a necessary amount be transferred from the general fund to the tobacco control fund to make up any shortfall.

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The bill establishes the legal characteristics of any sale, assignment, or transfer of payments under the tobacco settlement agreement. In addition, the bill provides that, with certain exceptions, this state's version of Article 9 of the Uniform Commercial Code governs the granting and enforcing of security interests in those payments. Article 9 generally governs similar transactions. Under the bill, if a person obtains, evidences, and provides notice of an interest in the tobacco settlement agreement payments under the procedure specified in the bill, that interest is enforceable against the debtor, any assignee or grantee, and all third parties, including creditors under any lien obtained by judicial proceedings. In addition, the interest is superior to all other liens against the tobacco settlement agreement payments that arise after the date on which the interest attaches to those payments.

Currently, DOA is required, subject to numerous exceptions, to make purchases by solicitation of bids or competitive sealed proposals preceded by public notice. DOA must prepare written justification of contractual service procurements and must comply with rules regarding conflicts of interest between contractors and DOA employees. DOA must also attempt to ensure that a specified portion of its procurement business is awarded to minority-owned businesses. This bill exempts contracts entered into by DOA to provide financial services in relation to this state's interest in the tobacco settlement agreement payments from compliance with these requirements.

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Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational facilities, such as the construction or remodeling of a health or educational facility or related structure, and to refinance outstanding debt of health or educational facilities. Under this bill, WHEFA is authorized to purchase the state's right to receive payments under the tobacco settlement agreement, to make a loan that is secured by the state's right to receive those payments, and to issue bonds to finance the purchase or to make the loan. Any bonds issued to finance the purchase or to make the loan must be payable from, or secured by interests in, the payments under

the tobacco settlement agreement. In addition, WHEFA is authorized to organize one or more nonstock corporations or limited liability companies for any purpose related to the purchase or sale of the state's right to receive payments under the tobacco settlement agreement.

This bill affirms the state's participation in the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. In addition, the bill states that the payments received under that agreement are the property of the state, to be used as the state decides by law. ~~The bill provides that no political subdivision of the state, or officer or agent of a political subdivision, may maintain a claim against any party that was released from liability by the state under the agreement.~~ The bill also provides that no political subdivision of the state, or officer or agent of a political subdivision, may maintain a claim related to the tobacco settlement agreement or any claim against any party that was released from liability by the state under the tobacco settlement agreement.

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

---

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

1           **SECTION 1.** 16.519 of the statutes is created to read:

2           **16.519 Fund transfers relating to tobacco settlement agreement. (1)**

3           In this section, "tobacco settlement agreement" means the Attorneys General Master  
4           Tobacco Settlement Agreement of November 23, 1998.

5           **(2)** Annually, on June 15, beginning in 2004, the secretary shall transfer from  
6           the permanent endowment fund to the general fund an amount equal to the amount  
7           calculated by the investment board under s. 25.17 (16).

8           **(3)** If the state has not received in fiscal year 2001-02 at least \$12,065,200  
9           under the tobacco settlement agreement, because the secretary, under s. 16.63, has  
10          sold the state's right to receive any of the payments under the tobacco settlement  
11          agreement, the secretary shall transfer from the general fund to the tobacco control  
12          fund an amount equal to \$12,065,200 less any payments received under the tobacco  
13          settlement agreement and deposited in the tobacco control fund in that fiscal year.

1           (4) If the state has not received in fiscal year 2002–03 at least \$21,228,000  
2 under the tobacco settlement agreement, because the secretary, under s. 16.63, has  
3 sold the state’s right to receive any of the payments under the tobacco settlement  
4 agreement, the secretary shall transfer from the general fund to the tobacco control  
5 fund an amount equal to \$21,228,000 less any payments received under the tobacco  
6 settlement agreement and deposited in the tobacco control fund in that fiscal year.

7           **SECTION 2.** 16.63 of the statutes is created to read:

8           **16.63 Sale of state’s rights to tobacco settlement agreement payments.**

9           (1) In this section:

10           (a) “Purchaser” means any person who has purchased the state’s right to  
11 receive any of the payments under the tobacco settlement agreement.

12           (b) “Tobacco settlement agreement” means the Attorneys General Master  
13 Tobacco Settlement Agreement of November 23, 1998.

14           (c) “Tobacco settlement revenues” means the right to receive settlement  
15 payments arising from or pursuant to the tobacco settlement agreement and all  
16 direct or indirect proceeds of that right.

17           (2) The secretary may sell for cash or other consideration the state’s right to  
18 receive any of the payments under the tobacco settlement agreement.

19           (3) The secretary may organize one or more nonstock corporations under ch.  
20 181 or limited liability companies under ch. 183 for any purpose related to the sale  
21 of the state’s right to receive any of the payments under the tobacco settlement  
22 agreement and may take any action necessary to facilitate and complete the sale.

23           (4) (a) Tobacco settlement revenues may not be deemed proceeds of any  
24 property which is not tobacco settlement revenues.

1 (b) Except as otherwise provided in this subsection, the creation, perfection,  
2 and enforcement of security interests in tobacco settlement revenues are governed  
3 by ch. 409. Notwithstanding ch. 409, with regard to creating, perfecting, and  
4 enforcing a valid security interest in tobacco settlement revenues:

5 1. If this state or the Wisconsin health and educational facilities authority is  
6 the debtor in the transaction, the proper place to file the required financing  
7 statement to perfect the security interest is the department of financial institutions.

8 2. The required financing statement shall include a description of collateral  
9 that describes the collateral as general intangibles consisting of the right to receive  
10 settlement payments arising from or pursuant to the tobacco settlement agreement  
11 and all proceeds of that right. The required financing statement may include any  
12 additional description of collateral that is legally sufficient under the laws of this  
13 state.

14 3. The tobacco settlement revenues are general intangibles for purposes of ch.  
15 409.

16 4. A security interest perfected under this paragraph is enforceable against the  
17 debtor, any assignee or grantee, and all third parties, including creditors under any  
18 lien obtained by judicial proceedings, subject only to the rights of any third parties  
19 holding security interests in the tobacco settlement revenues previously perfected  
20 under this paragraph. Unless the applicable security agreement provides otherwise,  
21 a perfected security interest in the tobacco settlement revenues is a continuously  
22 perfected security interest in all tobacco settlement revenues existing on the date of  
23 the agreement or arising after the date of the agreement. A security interest  
24 perfected under this paragraph has priority over any other lien created by operation  
25 of law or otherwise, which subsequently attaches to the tobacco settlement revenues.

1           5. The priority of a security interest created under this paragraph is not  
2 affected by the commingling of proceeds arising from the tobacco settlement  
3 revenues with other amounts.

4           (c) The sale, assignment, and transfer of tobacco settlement revenues are  
5 governed by this paragraph. All of the following apply to a sale, assignment, or  
6 transfer under this paragraph:

7           1. The sale, assignment, or transfer is an absolute transfer of, and not a pledge  
8 of or secured transaction relating to, the seller's right, title, and interest in, to, and  
9 under the tobacco settlement revenues, if the documents governing the transaction  
10 expressly state that the transaction is a sale or other absolute transfer. After such  
11 a transaction, the tobacco settlement revenues are not subject to any claims of the  
12 seller or the seller's creditors, other than creditors holding a prior security interest  
13 in the tobacco settlement revenues perfected under par. (b).

14           2. The characterization of the sale, assignment, or transfer as an absolute  
15 transfer under subd. 1. and the corresponding characterization of the purchaser's  
16 property interest is not affected by any of the following factors:

17           a. Commingling of amounts arising with respect to the tobacco settlement  
18 revenues with other amounts.

19           b. The retention by the seller of a partial or residual interest, including an  
20 equity interest, in the tobacco settlement revenues, whether direct or indirect, or  
21 whether subordinate or otherwise.

22           c. The sale, assignment, or transfer of only a portion of the tobacco settlement  
23 revenues or an undivided interest in the tobacco settlement revenues.

24           d. Any recourse that the purchaser or its assignees may have against the seller.

## SECTION 2

1 e. Whether the seller is responsible for collecting payments due under the  
2 tobacco settlement revenues or for otherwise enforcing any of the tobacco settlement  
3 revenues or retains legal title to the tobacco settlement revenues for the purpose of  
4 these collection activities.

5 f. The treatment of the sale, assignment, or transfer for tax purposes.

6 3. The sale, assignment, or transfer is perfected automatically as against third  
7 parties, including any third parties with liens created by operation of law or  
8 otherwise, upon attachment under ch. 409.

9 4. Nothing in this subsection precludes consideration of the factors listed in  
10 subd. 2. a. to e. in determining whether the sale, assignment, or transfer is a sale for  
11 tax purposes. The characterization of the sale, assignment, or transfer as an  
12 absolute transfer under subd. 1. may not be considered in determining whether the  
13 sale, assignment, or transfer is a sale for tax purposes.

14 (5) If the secretary sells the state's right to receive any of the payments under  
15 the tobacco settlement agreement, the state pledges to and agrees with any  
16 purchaser or subsequent transferee of the state's right to receive any of the payments  
17 under the tobacco settlement agreement that the state will not limit or alter its  
18 powers to fulfill the terms of the tobacco settlement agreement, nor will the state in  
19 any way impair the rights and remedies provided under the tobacco settlement  
20 agreement. The state also pledges to and agrees with any purchaser or subsequent  
21 transferee of the state's right to receive any of the payments under the tobacco  
22 settlement agreement that the state will pay all costs and expenses in connection  
23 with any action or proceeding brought by or on behalf of the purchaser or any  
24 subsequent transferee related to the state's not fulfilling the terms of the tobacco

1 settlement agreement. The secretary may include this pledge and agreement of the  
2 state in any contract that is entered into by the secretary under this section.

3 (6) If the secretary sells the state's right to receive any of the payments under  
4 the tobacco settlement agreement, the state pledges to and agrees with any  
5 purchaser or subsequent transferee of the state's right to receive any of the payments  
6 under the tobacco settlement agreement that the state will not limit or alter the  
7 powers of the secretary under this section until any contract that is entered into  
8 under this section is fully performed, unless adequate provision is made by law for  
9 the protection of the rights and remedies of the purchaser or any subsequent  
10 transferee under the contract. The secretary may include this pledge and agreement  
11 of the state in any contract that is entered into by the secretary under this section.

12 (7) The secretary may enter into a contract with any firm or individual engaged  
13 in providing financial services for the performance of any of his or her functions  
14 under this section, using selection and procurement procedures established by the  
15 secretary. That contract is not subject to s. 16.705 or 16.75.

16 (8) This subsection and subs. (8m) and (9) shall govern all civil claims, suits,  
17 proceedings, and actions brought against the state relating to the sale of the state's  
18 right to receive any of the payments under the tobacco settlement agreement. If the  
19 state fails to comply with this section or the terms of any agreement relating to the  
20 sale of the state's right to receive any of the payments under the tobacco settlement  
21 agreement, an action to compel compliance may be commenced against the state.

22 (8m) If the recovery of a money judgment against the state is necessary to give  
23 the plaintiff in an action under sub. (8) complete relief, a claim for the money  
24 damages may be joined with the claim commenced under sub. (8).

1           (9) Sections 16.007, 16.53, and 775.01 do not apply to claims against the state  
2 under sub. (8) or (8m). If there is a final judgment against the state in such an action,  
3 the judgment shall be paid as provided in s. 775.04 together with interest at the rate  
4 of 10% per year from the date such payment was judged to have been due until the  
5 date of payment of the judgment.

6           **SECTION 3.** 20.505 (1) (dm) of the statutes is created to read:

7           20.505 (1) (dm) *Sale of tobacco settlement payments.* A sum sufficient to pay  
8 the costs incurred by the secretary of administration in any sale of the state's right  
9 to receive any of the payments under the tobacco settlement agreement under s.  
10 16.63 (2) and in organizing and initially capitalizing any corporation or company  
11 under s. 16.63 (3).

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

12           **SECTION 4.** 20.855 (4) (rc) of the statutes is created to read:

13           20.855 (4) (rc) *Transfer to general fund.* From the permanent endowment fund,  
14 the amounts in the schedule to be transferred to the general fund.

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

15           **SECTION 5.** 20.855 (4) (rc) of the statutes, as created by 2001 Wisconsin Act ...  
16 (this act), is repealed.

17           **SECTION 6.** 20.855 (4) (rh) of the statutes is created to read:

18           20.855 (4) (rh) *Annual transfer from permanent endowment fund to general*  
19 *fund.* From the permanent endowment fund, to be transferred to the general fund,  
20 a sum sufficient equal to the amount that is required to be transferred to the general  
21 fund under s. 16.519 (2).

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

1           **SECTION 7.** 20.855 (4) (rp) of the statutes is created to read:

2           20.855 (4) (rp) *Transfer to general fund; 2001–02 fiscal year.* From the  
3 permanent endowment fund, the amounts in the schedule to be transferred to the  
4 general fund no later than June 30, 2002, except that the amounts in the schedule  
5 shall be reduced by any payments under the Attorneys General Master Tobacco  
6 Settlement Agreement of November 23, 1998, that is received by the state in fiscal  
7 year 2001–02.

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

8           **SECTION 8.** 20.855 (4) (rp) of the statutes, as created by 2001 Wisconsin Act ....  
9 (this act), is repealed.

10          **SECTION 9.** 20.855 (4) (rv) of the statutes is created to read:

11          20.855 (4) (rv) *Transfer to general fund; 2002–03 fiscal year.* From the  
12 permanent endowment fund, the amounts in the schedule to be transferred to the  
13 general fund no later than June 30, 2003, except that the amounts in the schedule  
14 shall be reduced by any payments under the Attorneys General Master Tobacco  
15 Settlement Agreement of November 23, 1998, that is received by the state in fiscal  
16 year 2002–03.

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

17          **SECTION 10.** 20.855 (4) (rv) of the statutes, as created by 2001 Wisconsin Act  
18 .... (this act), is repealed.

19          **SECTION 11.** 25.14 (1) (a) 15. of the statutes is created to read:

20          25.14 (1) (a) 15. The permanent endowment fund.

21          **SECTION 12.** 25.15 (2) (intro.) of the statutes is amended to read:

1           25.15 (2) STANDARD OF RESPONSIBILITY. (intro.) The Except as provided in s.  
2           25.18 (1) (p), the standard of responsibility applied to the board when it invests  
3 money or property shall be all of the following:

4           SECTION 13. 25.17 (1) (kr) of the statutes is created to read:

5           25.17 (1) (kr) Permanent endowment fund (s. 25.69);

6           SECTION 14. 25.17 (16) of the statutes is created to read:

7           25.17 (16) (a) Annually, after June 1 but not later than June 15, beginning in  
8 2004, calculate the amount of moneys that are available in the permanent  
9 endowment fund for transfer to the general fund under s. 16.519. For the purpose  
10 of this calculation, moneys that are available in the permanent endowment fund for  
11 transfer to the general fund shall equal the sum of the following:

12           1. An amount that equals 8.5% of the market value of the investments in the  
13 permanent endowment fund on June 1. For the purpose of making the calculation  
14 under this subdivision, the board shall not include any amounts or investments  
15 specified in subs. 2. and 3.

16           2. All proceeds of, and investment earnings on, investments of the permanent  
17 endowment fund made at the direction of the secretary of administration under s.  
18 25.18 (1) (p) that are received in the fiscal year.

19           3. All other amounts identified by the secretary of administration as payments  
20 of residual interests to the state from the sale of the state's right to receive payments  
21 under the Attorneys General Master Tobacco Settlement Agreement of November  
22 23, 1998, that are received in the fiscal year.

23           (b) Annually, beginning in 2004, submit to the secretary of administration and  
24 to the chief clerk of each house, for distribution to the appropriate standing  
25 committees under s. 13.172 (3), a report specifying the amount of moneys that are

1 available in the permanent endowment fund for transfer to the general fund under  
2 s. 16.519.

3 **SECTION 15.** 25.18 (1) (o) of the statutes is created to read:

4 25.18 (1) (o) Invest any of the assets of the permanent endowment fund in any  
5 investment that is an authorized investment for assets in the fixed retirement  
6 investment trust under s. 25.17 (4) or assets in the variable retirement investment  
7 trust under s. 25.17 (5).

8 **SECTION 16.** 25.18 (1) (p) of the statutes is created to read:

9 25.18 (1) (p) 1. If directed by the secretary of administration, invest any of the  
10 assets in the permanent endowment fund in any of the following:

11 a. Evidences of indebtedness, including subordinated obligations, that are  
12 secured by tobacco settlement revenues, as defined in s. 16.63 (1) (c), and that are  
13 issued by a corporation or company established under s. 16.63 (3) or 231.215 or by  
14 the Wisconsin health and educational facilities authority.

15 b. Certificates or other evidences of ownership interest in all or any portion of  
16 tobacco settlement revenues, as defined in s. 16.63 (1) (c).

17 2. If directed by the secretary of administration to make the investments under  
18 subd. 1., the board shall invest the assets under that subdivision subject to any terms  
19 and conditions specified by the secretary and shall not be subject to the standard of  
20 responsibility under s. 25.15 (2).

21 **SECTION 17.** 25.66 (1) of the statutes is repealed and recreated to read:

22 ~~25.66 (1) There is created a separate nonlapsible trust fund, known as the~~  
23 ~~tobacco control fund, to consist of, in fiscal year 2001-02, the first \$12,065,200 of the~~  
24 ~~moneys received under the Attorneys General Master Tobacco Settlement~~  
25 ~~Agreement of November 23, 1998, in that year, and, in fiscal year 2002-03, the first~~

1 \$21,228,000 of the moneys received under the Attorneys General Master Tobacco  
2 Settlement Agreement of November 23, 1998, in that year, except as provided in sub.  
3 (1m).

4 SECTION 18. 25.66 (1m) of the statutes is created to read:

5 25.66 (1m) (a) If the state has not received in fiscal year 2001–02 at least  
6 \$12,065,200 under the Attorneys General Master Tobacco Settlement Agreement of  
7 November 23, 1998, because the secretary of administration, under s. 16.63, has sold  
8 the state's right to receive payments under the Agreement, the tobacco control fund  
9 shall also consist of any moneys transferred to the tobacco control fund from the  
10 general fund under s. 16.519 (3).

11 (b) If the state has not received in fiscal year 2002–03 at least \$21,228,000  
12 under the Attorneys General Master Tobacco Settlement Agreement of  
13 November 23, 1998, because the secretary of administration, under s. 16.63, has sold  
14 the state's right to receive payments under the Agreement, the tobacco control fund  
15 shall also consist of any moneys transferred to the tobacco control fund from the  
16 general fund under s. 16.519 (4).

17 SECTION 19. 25.69 of the statutes is created to read:

18 **25.69 Permanent endowment fund.** There is established a separate  
19 nonlapsible trust fund designated as the permanent endowment fund, consisting of  
20 all of the proceeds from the sale of the state's right to receive payments under the  
21 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,  
22 and all investment earnings on the proceeds. Moneys in the permanent endowment  
23 fund shall be used only to make the transfers under s. 20.855 (4) (rc), (rh), (rp), and  
24 (rv).

1           **SECTION 20.** 25.69 of the statutes, as created by 2001 Wisconsin Act .... (this  
2 act), is amended to read:

3           **25.69 Permanent endowment fund.** There is established a separate  
4 nonlapsible trust fund designated as the permanent endowment fund, consisting of  
5 all of the proceeds from the sale of the state's right to receive payments under the  
6 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,  
7 and all investment earnings on the proceeds. Moneys in the permanent endowment  
8 fund shall be used only to make the transfers under s. 20.855 (4) ~~(re)~~, (rh), ~~(rp)~~, and  
9 ~~(rv)~~.

10           **SECTION 21.** 231.01 (9) of the statutes is amended to read:

11           231.01 (9) "Revenues" means, with respect to any project, the rents, fees,  
12 charges, and other income or profit derived therefrom and, with respect to any bonds  
13 issued under s. 231.03 (6) (g), tobacco settlement revenues identified in the bond  
14 resolution.

15           **SECTION 22.** 231.01 (11) of the statutes is created to read:

16           231.01 (11) "Tobacco settlement agreement" has the meaning given in s. 16.63  
17 (1) (b).

18           **SECTION 23.** 231.01 (12) of the statutes is created to read:

19           231.01 (12) "Tobacco settlement revenues" has the meaning given in s. 16.63  
20 (1) (c).

21           **SECTION 24.** 231.03 (6) (g) of the statutes is created to read:

22           231.03 (6) (g) Finance a purchase, or make a loan, under sub. (20). Bonds  
23 issued under this paragraph shall be payable from, or secured by interests in, tobacco  
24 settlement revenues and such other property pledged under the bond resolution and,

1 notwithstanding s. 231.08 (3), are not required to mature in 30 years or less from the  
2 date of issue.

3 **SECTION 25.** 231.03 (20) of the statutes is created to read:

4 **231.03 (20)** Purchase the state's right to receive any of the payments under the  
5 tobacco settlement agreement, or make a loan to be secured by the state's right to  
6 receive any of the payments under the tobacco settlement agreement, upon such  
7 terms and at such prices as the authority considers reasonable and as can be agreed  
8 upon between the authority and the other party to the transaction. The authority  
9 may issue certificates or other evidences of ownership interest in tobacco settlement  
10 revenues upon such terms and conditions as specified by the authority in the  
11 resolution under which the certificates or other evidences are issued or in a related  
12 trust agreement or trust indenture.

13 **SECTION 26.** 231.09 of the statutes is amended to read:

14 **231.09 Bond security.** The authority may secure any bonds issued under this  
15 chapter by a trust agreement, trust indenture, indenture of mortgage, or deed of  
16 trust by and between the authority and one or more corporate trustees, which may  
17 be any trust company or bank ~~in this state~~ having the powers of a trust company. The  
18 bond resolution providing for the issuance of bonds so secured shall pledge the  
19 revenues to be received by the authority as a result of the terms of the financing  
20 referred to in the resolution, and may contain such provisions for protecting and  
21 enforcing the rights and remedies of the bondholders as are reasonable and proper  
22 and not in violation of law, including particularly such provisions as are specifically  
23 authorized by this chapter to be included in any bond resolution of the authority, and  
24 may restrict the individual right of action by bondholders. In addition, any bond  
25 resolution may contain such other provisions as the authority deems reasonable and

1 proper for the security of the bondholders. All expenses incurred in carrying out the  
2 provisions of the bond resolution may be treated as a part of the cost of the operation  
3 of a project.

4 SECTION 27. 231.16 (1) of the statutes is amended to read:

5 231.16 (1) The authority may issue bonds to refund any outstanding bond of  
6 the authority or indebtedness that a participating health institution, participating  
7 educational institution, or participating child care provider may have incurred for  
8 the construction or acquisition of a project prior to or after April 30, 1980, including  
9 the payment of any redemption premium on the outstanding bond or indebtedness  
10 and any interest accrued or to accrue to the earliest or any subsequent date of  
11 redemption, purchase, or maturity, or to pay all or any part of the cost of constructing  
12 and acquiring additions, improvements, extensions, or enlargements of a project or  
13 any portion of a project. ~~No~~ Except for bonds to refund bonds issued under s. 231.03  
14 (6) (g), no bonds may be issued under this section unless the authority has first  
15 entered into a new or amended agreement with a participating health institution,  
16 participating educational institution, or participating child care provider to provide  
17 sufficient revenues to pay the costs and other items described in s. 231.13.

18 SECTION 28. 231.16 (3) of the statutes is amended to read:

19 231.16 (3) All bonds issued under this section shall be subject to this chapter  
20 in the same manner and to the same extent as other bonds issued pursuant to this  
21 chapter, except that the limitations with respect to dates under s. 231.03 (6) (e) and  
22 (f) and (14) do not apply to bonds issued under this section, and the requirement  
23 under s. 231.08 (3) that the bonds mature in 30 years or less from their date of issue  
24 does not apply to bonds issued under this section to refund bonds issued under s.  
25 231.03 (6) (g).

1           **SECTION 29.** 231.215 of the statutes is created to read:

2           **231.215 Incorporator for purpose related to purchase or sale of right**  
3 **to payments.** The authority, or its executive director, may organize one or more  
4 nonstock corporations under ch. 181 or limited liability companies under ch. 183 for  
5 any purpose related to purchasing or selling the state's right to receive any of the  
6 payments under the tobacco settlement agreement and may take any action  
7 necessary to facilitate and complete the purchase or sale.

8           **SECTION 30.** 409.102 (1) (intro.) of the statutes is amended to read:

9           409.102 (1) (intro.) Except as otherwise provided in s. 409.104 on excluded  
10 transactions and s. 16.63 (4) on transactions involving tobacco settlement revenues,  
11 this chapter applies:

12           **SECTION 31.** 895.11 of the statutes is created to read:

13           **895.11 Payments under the tobacco settlement agreement.** (1) In this  
14 section, "tobacco settlement agreement" means the Attorneys General Master  
15 Tobacco Settlement Agreement of November 23, 1998.

16           (2) The state's participation in the tobacco settlement agreement is affirmed.

17           (3) All payments received and to be received by the state under the tobacco  
18 settlement agreement are the property of the state, to be used as provided by law,  
19 including a sale, assignment, or transfer of the right to receive the payments under  
20 s. 16.63. No political subdivision of the state, and no officer or agent of any political  
21 subdivision of the state, shall have or seek to maintain any claim related to the  
22 tobacco settlement agreement or any claim against any party that was released from  
23 liability by the state under the tobacco settlement agreement.

24           **SECTION 9459. Effective dates; other.**



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

LRB-1528/7dn  
RC/PK/RM/JTK/RN: #S:pg

JLD

Dawn Currier/Frank Hoadley:

This draft reconciles LRB-1528 and LRB-1205. Both of these drafts should continue to appear in the compiled bill. The only change in this draft is that the treatment of s. 25.66 is taken out of this draft and is treated in LRB-1205.

(1)

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

LRB-1528/7dn  
RAC:cjs:ch

February 6, 2001

Dawn Currier/Frank Hoadley:

This draft reconciles LRB-1528 and LRB-1205. Both of these drafts should continue to appear in the compiled bill. The only change in this draft is that the treatment of s. 25.66 (1) is taken out of this draft and is treated in LRB-1205.

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## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Tuesday, February 06, 2001 3:56 PM  
**To:** Hoadley, Frank  
**Subject:** LRB 01-1528/7



01-1528/7

*Mike Barman*

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