



State of Wisconsin
2013 - 2014 LEGISLATURE



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT to amend 7.33 (1) (c), 13.172 (1), 13.62 (2), 13.94 (4) (a) 1., 16.002 (2),
2 16.004 (4), 16.004 (5), 16.004 (12) (a), 16.01 (1), 16.045 (1) (a), 16.41 (4), 16.417
3 (1) (b), 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.70 (2), 16.75 (1m),
4 16.765 (1), 16.765 (2), 16.765 (5), 16.765 (6), 16.765 (7) (intro.), 16.765 (7) (d),
5 16.765 (8), 16.838 (1) (b), 16.85 (2), 16.865 (8), 23.175 (1) (b), 71.26 (1) (be), 77.54
6 (9a) (a), 100.45 (1) (dm), 103.49 (1) (f), 106.16 (2), 106.16 (3), 230.03 (3), 238.10
7 (1), 281.75 (4) (b) 3., 285.59 (1) (b) and 706.11 (1) (c) 2.; and to create 13.94 (1)
8 (w), 19.42 (10) (qm), 20.498, 24.61 (2) (a) 10r., 25.17 (3) (b) 14., 40.02 (54) (k),
9 66.0603 (1m) (a) 3v., 71.05 (1) (c) 7m., 71.26 (1m) (n), 71.45 (1t) (n), 219.09 (1)
10 (h), chapter 235 and 600.01 (1) (b) 8m. of the statutes; relating to: creating the
11 Wisconsin Renewable Energy Development Authority to participate in and
12 guarantee certain loans for clean or renewable energy or bio-based businesses,
13 implement other programs regarding such business, and make grants for

energy-related

energy-related

Certain

1 commercializing certain biological fuel, power, or products; and making ^{an}
2 appropriations.

Analysis by the Legislative Reference Bureau

INSERTA
~~This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.~~

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:

3 SECTION 1. 7.33 (1) (c) of the statutes is amended to read:

4 7.33 (1) (c) "State agency" has the meaning given under s. 20.001 (1) and
5 includes an authority created under subch. II of ch. 114 or ch. 231, 232, 233, 234, 235,
6 or 237.

7 SECTION 2. 13.172 (1) of the statutes is amended to read:

8 13.172 (1) In this section, "agency" means an office, department, agency,
9 institution of higher education, association, society, or other body in state
10 government created or authorized to be created by the constitution or any law, that
11 is entitled to expend moneys appropriated by law, including the legislature and the
12 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
13 ch. 231, 233, 234, 235, 238, or 279.

14 SECTION 3. 13.62 (2) of the statutes is amended to read:

15 13.62 (2) "Agency" means any board, commission, department, office, society,
16 institution of higher education, council, or committee in the state government, or any
17 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,

1 234, 235, 237, 238, or 279, except that the term does not include a council or
2 committee of the legislature.

3 **SECTION 4.** 13.94 (1) (w) of the statutes is created to read:

4 13.94 (1) (w) Annually conduct a financial audit of the Wisconsin Renewable
5 Energy Development Authority. The legislative audit bureau shall file a copy of each
6 audit report under this paragraph with the distributees specified in par. (b).

***NOTE: The above is based on your instruction to require LAB to conduct an
annual audit of the authority.

7 **SECTION 5.** 13.94 (4) (a) 1. of the statutes is amended to read:

8 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
9 credentialing board, commission, independent agency, council or office in the
10 executive branch of state government; all bodies created by the legislature in the
11 legislative or judicial branch of state government; any public body corporate and
12 politic created by the legislature including specifically the Fox River Navigational
13 System Authority, the Lower Fox River Remediation Authority, the Wisconsin
14 Aerospace Authority, the Wisconsin Renewable Energy Development Authority, and
15 the Wisconsin Economic Development Corporation, a professional baseball park
16 district, a local professional football stadium district, a local cultural arts district and
17 a long-term care district under s. 46.2895; every Wisconsin works agency under
18 subch. III of ch. 49; every provider of medical assistance under subch. IV of ch. 49;
19 technical college district boards; every county department under s. 51.42 or 51.437;
20 every nonprofit corporation or cooperative or unincorporated cooperative association
21 to which moneys are specifically appropriated by state law; and every corporation,
22 institution, association or other organization which receives more than 50% of its

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1 annual budget from appropriations made by state law, including subgrantee or
2 subcontractor recipients of such funds.

***NOTE: Under s. 13.95 (intro.), the Legislative Fiscal Bureau has access to the following authorities and their books and records: the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, and the Fox River Navigational System Authority. Do you want to add the authority created in this bill to that list?

3 **SECTION 6.** 16.002 (2) of the statutes is amended to read:

4 16.002 (2) "Departments" means constitutional offices, departments, and
5 independent agencies and includes all societies, associations, and other agencies of
6 state government for which appropriations are made by law, but not including
7 authorities created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232,
8 233, 234, 235, 237, 238, or 279.

9 **SECTION 7.** 16.004 (4) of the statutes is amended to read:

10 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
11 department as the secretary designates may enter into the offices of state agencies
12 and authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under
13 chs. 231, 233, 234, 235, 237, 238, and 279, and may examine their books and accounts
14 and any other matter that in the secretary's judgment should be examined and may
15 interrogate the agency's employees publicly or privately relative thereto.

16 **SECTION 8.** 16.004 (5) of the statutes is amended to read:

17 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
18 authorities created under subch. II of ch. 114 and subch. III of ch. 149 and under chs.
19 231, 233, 234, 235, 237, 238, and 279, and their officers and employees, shall
20 cooperate with the secretary and shall comply with every request of the secretary
21 relating to his or her functions.

22 **SECTION 9.** 16.004 (12) (a) of the statutes is amended to read:

1 16.004 (12) (a) In this subsection, “state agency” means an association,
2 authority, board, department, commission, independent agency, institution, office,
3 society, or other body in state government created or authorized to be created by the
4 constitution or any law, including the legislature, the office of the governor, and the
5 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
6 the Wisconsin Aerospace Authority, the Wisconsin Renewable Energy Development
7 Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River
8 Remediation Authority, the Wisconsin Economic Development Corporation, and the
9 Fox River Navigational System Authority.

10 **SECTION 10.** 16.01 (1) of the statutes is amended to read:

11 16.01 (1) In this section, “agency” means any office, department, agency,
12 institution of higher education, association, society or other body in state
13 government created or authorized to be created by the constitution or any law which
14 is entitled to expend moneys appropriated by law, including the legislature and the
15 courts, and any authority created under subch. II of ch. 114 or ch. 231, 233 ~~or~~, 234,
16 or 235.

17 **SECTION 11.** 16.045 (1) (a) of the statutes is amended to read:

18 16.045 (1) (a) “Agency” means an office, department, independent agency,
19 institution of higher education, association, society, or other body in state
20 government created or authorized to be created by the constitution or any law, that
21 is entitled to expend moneys appropriated by law, including the legislature and the
22 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
23 ch. 149 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

24 **SECTION 12.** 16.41 (4) of the statutes is amended to read:

1 16.41 (4) In this section, “authority” means a body created under subch. II of
2 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, 235, 237, 238, or 279.

3 **SECTION 13.** 16.417 (1) (b) of the statutes is amended to read:

4 16.417 (1) (b) “Authority” means a body created under subch. II of ch. 114 or
5 ch. 231, 232, 233, 234, 235, 237, 238, or 279.

6 **SECTION 14.** 16.52 (7) of the statutes is amended to read:

7 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
8 that is authorized to maintain a contingent fund under s. 20.920 may establish a
9 petty cash account from its contingent fund. The procedure for operation and
10 maintenance of petty cash accounts and the character of expenditures therefrom
11 shall be prescribed by the secretary. In this subsection, “agency” means an office,
12 department, independent agency, institution of higher education, association,
13 society, or other body in state government created or authorized to be created by the
14 constitution or any law, that is entitled to expend moneys appropriated by law,
15 including the legislature and the courts, but not including an authority created in
16 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 235, 237, 238, or
17 279.

18 **SECTION 15.** 16.528 (1) (a) of the statutes is amended to read:

19 16.528 (1) (a) “Agency” means an office, department, independent agency,
20 institution of higher education, association, society, or other body in state
21 government created or authorized to be created by the constitution or any law, that
22 is entitled to expend moneys appropriated by law, including the legislature and the
23 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
24 ch. 149 or in ch. 231, 233, 234, 235, 237, 238, or 279.

25 **SECTION 16.** 16.53 (2) of the statutes is amended to read:

1 **16.53 (2) IMPROPER INVOICES.** If an agency receives an improperly completed
2 invoice, the agency shall notify the sender of the invoice within 10 working days after
3 it receives the invoice of the reason it is improperly completed. In this subsection,
4 “agency” means an office, department, independent agency, institution of higher
5 education, association, society, or other body in state government created or
6 authorized to be created by the constitution or any law, that is entitled to expend
7 moneys appropriated by law, including the legislature and the courts, but not
8 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
9 231, 233, 234, 235, 237, 238, or 279.

10 **SECTION 17.** 16.54 (9) (a) 1. of the statutes is amended to read:

11 **16.54 (9) (a) 1.** “Agency” means an office, department, independent agency,
12 institution of higher education, association, society or other body in state
13 government created or authorized to be created by the constitution or any law, which
14 is entitled to expend moneys appropriated by law, including the legislature and the
15 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
16 ch. 149 or in ch. 231, 233, 234, 235, 237, 238, or 279.

17 **SECTION 18.** 16.70 (2) of the statutes is amended to read:

18 **16.70 (2)** “Authority” means a body created under subch. II of ch. 114 or subch.
19 III of ch. 149 or under ch. 231, 232, 233, 234, 235, 237, or 279.

***NOTE: The above ensures that the authority is subject to the same state
procurement requirements that apply to the other specified authorities.

20 **SECTION 19.** 16.75 (1m) of the statutes is amended to read:

21 **16.75 (1m)** The department shall award each order or contract for materials,
22 supplies or equipment on the basis of life cycle cost estimates, whenever such action
23 is appropriate. Each authority other than the University of Wisconsin Hospitals and

1 Clinics Authority, the Lower Fox River Remediation Authority, the Wisconsin
2 Aerospace Authority, the Wisconsin Renewable Energy Development Authority, and
3 the Health Insurance Risk-Sharing Plan Authority shall award each order or
4 contract for materials, supplies or equipment on the basis of life cycle cost estimates,
5 whenever such action is appropriate. The terms, conditions and evaluation criteria
6 to be applied shall be incorporated in the solicitation of bids or proposals. The life
7 cycle cost formula may include, but is not limited to, the applicable costs of energy
8 efficiency, acquisition and conversion, money, transportation, warehousing and
9 distribution, training, operation and maintenance and disposition or resale. The
10 department shall prepare documents containing technical guidance for the
11 development and use of life cycle cost estimates, and shall make the documents
12 available to local governmental units.

13 **SECTION 20.** 16.765 (1) of the statutes is amended to read:

14 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
15 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
16 Aerospace Authority, the Wisconsin Renewable Energy Development Authority, the
17 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
18 Authority, the Wisconsin Economic Development Corporation, and the Bradley
19 Center Sports and Entertainment Corporation shall include in all contracts executed
20 by them a provision obligating the contractor not to discriminate against any
21 employee or applicant for employment because of age, race, religion, color, handicap,
22 sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual
23 orientation as defined in s. 111.32 (13m), or national origin and, except with respect
24 to sexual orientation, obligating the contractor to take affirmative action to ensure
25 equal employment opportunities.

1 **SECTION 21.** 16.765 (2) of the statutes is amended to read:

2 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
3 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
4 Aerospace Authority, the Wisconsin Renewable Energy Development Authority, the
5 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
6 Authority, the Wisconsin Economic Development Corporation, and the Bradley
7 Center Sports and Entertainment Corporation shall include the following provision
8 in every contract executed by them: “In connection with the performance of work
9 under this contract, the contractor agrees not to discriminate against any employee
10 or applicant for employment because of age, race, religion, color, handicap, sex,
11 physical condition, developmental disability as defined in s. 51.01 (5), sexual
12 orientation or national origin. This provision shall include, but not be limited to, the
13 following: employment, upgrading, demotion or transfer; recruitment or recruitment
14 advertising; layoff or termination; rates of pay or other forms of compensation; and
15 selection for training, including apprenticeship. Except with respect to sexual
16 orientation, the contractor further agrees to take affirmative action to ensure equal
17 employment opportunities. The contractor agrees to post in conspicuous places,
18 available for employees and applicants for employment, notices to be provided by the
19 contracting officer setting forth the provisions of the nondiscrimination clause”.

20 **SECTION 22.** 16.765 (5) of the statutes is amended to read:

21 16.765 (5) The head of each contracting agency and the boards of directors of
22 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
23 Navigational System Authority, the Wisconsin Aerospace Authority, the Wisconsin
24 Renewable Energy Development Authority, the Health Insurance Risk-Sharing
25 Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin

1 Economic Development Corporation, and the Bradley Center Sports and
2 Entertainment Corporation shall be primarily responsible for obtaining compliance
3 by any contractor with the nondiscrimination and affirmative action provisions
4 prescribed by this section, according to procedures recommended by the department.
5 The department shall make recommendations to the contracting agencies and the
6 boards of directors of the University of Wisconsin Hospitals and Clinics Authority,
7 the Fox River Navigational System Authority, the Wisconsin Aerospace Authority,
8 the Wisconsin Renewable Energy Development Authority, the Health Insurance
9 Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the
10 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
11 Entertainment Corporation for improving and making more effective the
12 nondiscrimination and affirmative action provisions of contracts. The department
13 shall promulgate such rules as may be necessary for the performance of its functions
14 under this section.

15 **SECTION 23.** 16.765 (6) of the statutes is amended to read:

16 16.765 (6) The department may receive complaints of alleged violations of the
17 nondiscrimination provisions of such contracts. The department shall investigate
18 and determine whether a violation of this section has occurred. The department may
19 delegate this authority to the contracting agency, the University of Wisconsin
20 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
21 Wisconsin Aerospace Authority, the Wisconsin Renewable Energy Development
22 Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River
23 Remediation Authority, the Wisconsin Economic Development Corporation, or the
24 Bradley Center Sports and Entertainment Corporation for processing in accordance
25 with the department's procedures.

1 **SECTION 24.** 16.765 (7) (intro.) of the statutes is amended to read:

2 16.765 (7) (intro.) When a violation of this section has been determined by the
3 department, the contracting agency, the University of Wisconsin Hospitals and
4 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
5 Aerospace Authority, the Wisconsin Renewable Energy Development Authority, the
6 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
7 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
8 Sports and Entertainment Corporation, the contracting agency, the University of
9 Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
10 Authority, the Wisconsin Aerospace Authority, the Wisconsin Renewable Energy
11 Development Authority, the Health Insurance Risk-Sharing Plan Authority, the
12 Lower Fox River Remediation Authority, the Wisconsin Economic Development
13 Corporation, or the Bradley Center Sports and Entertainment Corporation shall:

14 **SECTION 25.** 16.765 (7) (d) of the statutes is amended to read:

15 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
16 further violations of this section and to report its corrective action to the contracting
17 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
18 Navigational System Authority, the Wisconsin Aerospace Authority, the Wisconsin
19 Renewable Energy Development Authority, the Health Insurance Risk-Sharing
20 Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin
21 Economic Development Corporation, or the Bradley Center Sports and
22 Entertainment Corporation.

23 **SECTION 26.** 16.765 (8) of the statutes is amended to read:

24 16.765 (8) If further violations of this section are committed during the term
25 of the contract, the contracting agency, the Fox River Navigational System Authority,

1 the Wisconsin Aerospace Authority, the Wisconsin Renewable Energy Development
2 Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River
3 Remediation Authority, the Wisconsin Economic Development Corporation, or the
4 Bradley Center Sports and Entertainment Corporation may permit the violating
5 party to complete the contract, after complying with this section, but thereafter the
6 contracting agency, the Fox River Navigational System Authority, the Wisconsin
7 Aerospace Authority, the Wisconsin Renewable Energy Development Authority, the
8 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
9 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
10 Sports and Entertainment Corporation shall request the department to place the
11 name of the party on the ineligible list for state contracts, or the contracting agency,
12 the Fox River Navigational System Authority, the Wisconsin Aerospace Authority,
13 the Wisconsin Renewable Energy Development Authority, the Health Insurance
14 Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the
15 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
16 Entertainment Corporation may terminate the contract without liability for the
17 uncompleted portion or any materials or services purchased or paid for by the
18 contracting party for use in completing the contract.

19 **SECTION 27.** 16.838 (1) (b) of the statutes is amended to read:

20 16.838 (1) (b) "Authority" means a body created under subch. II of ch. 114 or
21 ch. 231, 232, 233, 234, 235, or 237.

22 **SECTION 28.** 16.85 (2) of the statutes is amended to read:

23 16.85 (2) To furnish engineering, architectural, project management, and other
24 building construction services whenever requisitions therefor are presented to the
25 department by any agency. The department may deposit moneys received from the

1 provision of these services in the account under s. 20.505 (1) (kc) or in the general
2 fund as general purpose revenue — earned. In this subsection, “agency” means an
3 office, department, independent agency, institution of higher education, association,
4 society, or other body in state government created or authorized to be created by the
5 constitution or any law, which is entitled to expend moneys appropriated by law,
6 including the legislature and the courts, but not including an authority created in
7 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 235, 237, 238, or
8 279.

9 **SECTION 29.** 16.865 (8) of the statutes is amended to read:

10 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
11 proportionate share of the estimated costs attributable to programs administered by
12 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
13 may charge premiums to agencies to finance costs under this subsection and pay the
14 costs from the appropriation on an actual basis. The department shall deposit all
15 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
16 Costs assessed under this subsection may include judgments, investigative and
17 adjustment fees, data processing and staff support costs, program administration
18 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
19 subsection, “agency” means an office, department, independent agency, institution
20 of higher education, association, society, or other body in state government created
21 or authorized to be created by the constitution or any law, that is entitled to expend
22 moneys appropriated by law, including the legislature and the courts, but not
23 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
24 231, 232, 233, 234, 235, 237, 238, or 279.

25 **SECTION 30.** 19.42 (10) (qm) of the statutes is created to read:

1 19.42 (10) (qm) The executive director and members of the board of directors
2 of the Wisconsin Renewable Energy Development Authority.

3 SECTION 31. 20.005 (3) (schedule) of the statutes: at the appropriate place,
4 insert the following amounts for the purposes indicated:

5 2013-14 2014-15

6 20.498 Wisconsin Renewable Energy
7 Development Authority

8 (1) AUTHORITY OPERATIONS

9 (a) General program operations GPR C -0-

1,400,000
Lla

10 (b) Biological fuel, power, and prod-
11 uct grant program GPR C -0- -0-

12 SECTION 32. 20.498 of the statutes is created to read:

13 20.498 Wisconsin Renewable Energy Development Authority. There is
14 appropriated to the Wisconsin Renewable Energy Development Authority for the
15 following programs:

16 (1) AUTHORITY OPERATIONS. (a) *General program operations*. As a continuing
17 appropriation, the amounts in the schedule for purposes of ch. 235, ~~except for grants~~
18 ~~under s. 235.17.~~

***NOTE: Regarding the grants under proposed s. 235.17, I assume that you want a separate appropriation, as the proposal states that the grants are made from the appropriation under s. 20.498 (2), but does not include any language for that appropriation. Note that I created an appropriation for the grants in proposed s. 20.498 (1) (b).

***NOTE: How much do you want to appropriate to the authority? Also, it looks like you want to allow the authority to determine how to allocate the appropriation for specific purposes under the draft (e.g., salaries, expenses, contracts, and insurance under proposed ss. 235.02 (2) and (4) and 235.03 (5), (6), and (9), as well as the cost of exercising the additional powers specified in proposed s. 235.18). Is that okay?

***NOTE: The authority also has the discretion to determine how much of the above appropriation to allocate for participating in loans in proposed s. 235.14. Is that okay?

As for the loan guarantees under proposed s. 235.15, I'm not sure about your intent. It appears that the funding source for the loan guarantees is the Wisconsin Clean and Renewable Energy Reserve Fund (fund), which the authority is required to establish and control. Also, proposed s. 235.16 (2) (b) prohibits the authority from using moneys other than those in the fund for the loan guarantees. Therefore, should the above appropriation be revised so that the authority cannot make an allocation to be used for the loan guarantees? On a related point, the proposal states that the fund includes moneys appropriated to the authority or received by the authority for the fund from any source. See proposed s. 235.16(1) (a). However, the proposal does not include an appropriation for the fund. Do you want to include a separate appropriation for that fund? If the funding source is general purpose revenue, how much do you want to appropriate?

1 (b) *Biological fuel, power, and product grant program.* As a continuing
2 appropriation, the amounts in the schedule for grants under s. 235.17.

****NOTE: How much do you want to appropriate for the grants? As an alternative, you could fund the grants from the appropriation under proposed s. 20.499(1) (a), and let the authority determine how much of that appropriation to allocate to the grants.

3 **SECTION 33.** 23.175 (1) (b) of the statutes is amended to read:

4 23.175 (1) (b) "State agency" means any office, department, agency, institution
5 of higher education, association, society or other body in state government created
6 or authorized to be created by the constitution or any law which is entitled to expend
7 moneys appropriated by law, including any authority created under subch. II of ch.
8 114 or ch. 231, 233, 234, 235, or 237 but not including the legislature or the courts.

9 **SECTION 34.** 24.61 (2) (a) 10r. of the statutes is created to read:

10 24.61 (2) (a) 10r. Bonds of the Wisconsin Renewable Energy Development
11 Authority.

12 **SECTION 35.** 25.17 (3) (b) 14. of the statutes is created to read:

13 25.17 (3) (b) 14. Bonds issued by the Wisconsin Renewable Energy
14 Development Authority.

15 **SECTION 36.** 40.02 (54) (k) of the statutes is created to read:

16 40.02 (54) (k) The Wisconsin Renewable Energy Development Authority.

17 **SECTION 37.** 66.0603 (1m) (a) 3v. of the statutes is created to read:

INSERT 16-2

1 66.0603 (1m) (a) 3v. Bonds issued by the Wisconsin Renewable Energy
2 Development Authority.

****NOTE: The property of the following authorities that is used primarily for authority purposes is exempt from general property taxes: the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, the Fox River Navigational System Authority, and the Health Insurance Risk-Sharing Plan Authority. See s. 70.11 (38), (38m), (38r), (41), and (41m). Do you want a similar exemption for the authority created by this draft?

3 SECTION 38. 71.05 (1) (c) 7m. of the statutes is created to read:

4 71.05 (1) (c) 7m. The Wisconsin Renewable Energy Development Authority.

5 SECTION 39. 71.26 (1) (be) of the statutes is amended to read:

6 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
7 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
8 Authority, of the Fox River Navigational System Authority, of the Wisconsin
9 Economic Development Corporation, of the Wisconsin Renewable Energy
10 Development Authority, and of the Wisconsin Aerospace Authority.

11 SECTION 40. 71.26 (1m) (n) of the statutes is created to read:

12 71.26 (1m) (n) Those issued under s. 235.06.

13 SECTION 41. 71.45 (1t) (n) of the statutes is created to read:

14 71.45 (1t) (n) Those issued under s. 235.06.

15 SECTION 42. 77.54 (9a) (a) of the statutes is amended to read:

16 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
17 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
18 Renewable Energy Development Authority, the Health Insurance Risk-Sharing
19 Plan Authority, the Wisconsin Economic Development Corporation, and the Fox
20 River Navigational System Authority.

21 SECTION 43. 100.45 (1) (dm) of the statutes is amended to read:

1 100.45 (1) (dm) “State agency” means any office, department, agency,
2 institution of higher education, association, society, or other body in state
3 government created or authorized to be created by the constitution or any law which
4 is entitled to expend moneys appropriated by law, including the legislature and the
5 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
6 Center Sports and Entertainment Corporation, the University of Wisconsin
7 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
8 Authority, the Wisconsin Aerospace Authority, the Wisconsin Renewable Energy
9 Development Authority, the Wisconsin Economic Development Corporation, and the
10 Fox River Navigational System Authority.

11 **SECTION 44.** 103.49 (1) (f) of the statutes is amended to read:

12 103.49 (1) (f) “State agency” means any office, department, independent
13 agency, institution of higher education, association, society or other body in state
14 government created or authorized to be created by the constitution or any law,
15 including the legislature and the courts. “State agency” also includes the University
16 of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
17 Authority, ~~and the Wisconsin Aerospace Authority, and the Wisconsin Renewable~~
18 Energy Development Authority.

19 **SECTION 45.** 106.16 (2) of the statutes is amended to read:

20 106.16 (2) Any company that receives a loan or grant from a state agency or
21 an authority under ch. 231 ~~or~~, 234, or 235 shall notify the department and the local
22 workforce development board established under 29 USC 2832, of any position in the
23 company that is related to the project for which the grant or loan is received to be
24 filled in this state within one year after receipt of the loan or grant. The company
25 shall provide this notice at least 2 weeks prior to advertising the position.

INSERT 19-9

1 (3) "Bond" means a bond, note, or other obligation of the authority issued under
2 this chapter, including a refunding bond.

3 (4) "Bond resolution" means a resolution of the board authorizing the issuance
4 of, or providing terms and conditions related to, bonds and includes, when
5 appropriate, any trust agreement, trust indenture, indenture of mortgage, or deed
6 of trust providing terms and conditions for the bonds.

7 (5) "Clean or renewable energy or biobased business" means any commercial
8 entity that produces energy, fuels, chemicals, or products generated primarily from
9 agricultural, forestry, plant, or other biological materials, or is renewable.

****NOTE: The above could be interpreted as referring to any commercial entity that is renewable. Do you want to refer instead to energy, fuels, chemicals, or products that are renewable? You could also refer instead to energy, fuels, chemicals or products generated primarily from renewable resources. Also, what do you mean by "renewable"? Note that ss. 196.374 (1) (j) and 196.375 (1) provide definitions for "renewable resources." Do you want to incorporate aspects of those definitions to clarify what you mean by "renewable"?

10 (6) "Lender" does not include a seller under a land contract.

****NOTE: I decided to create a definition for lender that applies throughout the chapter. Based on the proposal's definitions of "participating lender," it appears that you want to refer to any type of lender except a seller under a land contract. Is that correct? Also, note that the proposal's definitions refer to either a farm credit service or a production credit association. Under the definition above, the proposal's different definitions are not an issue, but if you want to take a different approach, please be aware of this issue.

INSERT 19-10

7

11 **235.02 Creation and organization.** (1) (a) There is created a public body
12 politic and corporate to be known as the "Wisconsin Renewable Energy Development
13 Authority." The board of the authority shall consist of the following members:

14 1. Four persons representing clean or renewable energy or biobased
15 businesses. *eligible*

****NOTE: The proposal refers to clean or renewable energy or biobased "industries." However, I substituted the term defined in s. 235.01 (5), which is clean or renewable energy or biobased "business."

16 2. One commercial lender.

1 3. The secretary of natural resources or his or her designee.

2 4. The secretary of agriculture, trade and consumer protection or his or her
3 designee.

4 5. The chief executive officer of the Wisconsin Economic Development
5 Corporation or his or her designee.

6 6. The chairperson of the public service commission or his or her designee.

7 7. The dean of the College of Agricultural and Life Sciences of the University
8 of Wisconsin-Madison or his or her designee.

9 8. The director of the Wisconsin Alumni Research Foundation or his or her
10 designee.

11 (b) The members under par. (a) 1. and 2. shall be nominated by the governor,
12 and with the advice and consent of the senate appointed, for 4-year terms. Except
13 for the initial members under par. (a) 1. and 2., before nominating the members
14 under par. (a) 1. and 2., the governor shall obtain and consider the board's
15 recommendations for nominees.

****NOTE: The second sentence corresponds to your instruction to allow the board
to prepare a list of candidates to be future candidates of the board. Is it okay, or do you
want to give the board more power over the governor?

16 (c) Members of the board shall be residents of the state.

17 (d) The terms of the members appointed under par. (a) 1. and 2. expire on July

18 1. Each member's appointment remains in effect until a successor is appointed.

19 ~~(e) Annually, the governor shall appoint one member as chairperson and the~~
20 ~~board shall elect one member as vice chairperson.~~

****NOTE: I changed the proposal to allow the board, instead of the governor, to
appoint an executive director. What about the chairperson? Do you also want the board,
and not the governor, to appoint the chairperson?



1 (2) The board shall appoint an executive director who may not be a member of
2 the board and who shall serve at the pleasure of the board. The board shall determine
3 the compensation of the executive director, except that the compensation of the
4 executive director may not exceed the maximum of the salary range established
5 under s. 20.923 (1) for positions assigned to executive salary group 4 and the
6 compensation of each other employee of the authority may not exceed the maximum
7 of the salary range established under s. 20.923 (1) for positions assigned to executive
8 salary group 3. The executive director or another person designated by resolution
9 of the board shall keep a record of the proceedings of the authority and shall be
10 custodian of all books, documents, and papers filed with the authority, the minute
11 book or journal of the authority, and its official seal. The executive director, or other
12 person, may cause copies to be made of all minutes and other records and documents
13 of the authority and may give certificates under the official seal of the authority to
14 the effect that the copies are true copies, and all persons dealing with the authority
15 may rely upon the certificates.

16 (3) Six members of the board constitute a quorum. The affirmative vote of a
17 majority of all of the members of the board is necessary for any action taken by the
18 authority. A vacancy in the membership of the board does not impair the right of a
19 quorum to exercise all of the rights and perform all of the duties of the authority.
20 ~~Each~~ ^{All} meeting^s of the board shall be open to the public. Notice of meetings, or waivers
21 thereof, shall be as ~~provided in the bylaws of the authority.~~ Resolutions of the
22 authority need not be published or posted. The board may delegate by resolution to
23 one or more of its members or the executive director the powers and duties that it
24 considers proper.

INSERT 21-21

INSERT 22-4

****NOTE: The analysis included in the proposal states that the board is subject to open meetings laws. However, although the above states that meetings are open to the public, the above also states that notice of meetings shall be as provided in the bylaws, rather than as required under s. 19.84. If you want the meetings to be subject to the open meetings requirements under subch. V of ch. 19, the above should be revised to clarify that intent.

1 (4) The members of the board shall receive no compensation for the
2 performance of their duties as members, but each member shall be reimbursed for
3 the member's actual and necessary expenses while engaged in the performance of the
4 member's duties.

****NOTE: For the Fox River Navigational System Authority, current law provides: "No cause of action of any nature may arise against and no civil liability may be imposed upon a member of the board of directors for any act or omission in the performance of his or her powers and duties under this chapter, unless the person asserting liability proves that the act or omission constitutes willful misconduct." Section 237.02 (4). See similar language in ss. 114.61 (5) (Wisconsin Aerospace Authority) and 233.02 (4) (University of Wisconsin Hospitals and Clinics Authority). Do you want to add similar language to this draft? Note that proposed s. 235.06 (5) deals with board member liability with respect to bonds.

5 **235.03 Powers of authority.** The authority has all of the powers necessary
6 or convenient to carry out the purposes and provisions of this chapter. In addition
7 to all other powers granted by this chapter, the authority may do any of the following:

8 (1) Adopt bylaws, policies, and procedures for the regulation of its affairs and
9 the conduct of its business.

****NOTE: The proposal refers to adopting bylaws and rules. However, because the authority is not required to promulgate rules under ch. 227, the above refers to bylaws, policies, and procedures. Note that similar language is used for the Wisconsin Aerospace Authority in s. 114.62 (1).

10 (2) Sue and be sued.

11 (3) Hire employees, define their duties, and fix their rate of compensation,
12 subject to s. 235.02 (2).

13 (4) Have a seal and alter the seal at pleasure, have perpetual existence, and
14 maintain an office.

1 (5) Appoint any technical or professional advisory committee that the
2 authority finds necessary to assist the authority in exercising its duties and powers,
3 define the duties of any committee, and provide reimbursement for the expenses of
4 any committee.

5 (6) Enter into contracts with 3rd parties as are necessary for the conduct of its
6 business.

7 (7) Accept gifts, grants, and other funding for the conduct of its business.

8 (8) Charge fees for services that the authority provides.

9 (9) Procure insurance against any loss in connection with its assets and procure
10 insurance on its debt obligations.

11 **235.04 Political activities.** (1) No employee of the authority may directly or
12 indirectly solicit or receive subscriptions or contributions for any partisan political
13 party or any political purpose while engaged in his or her official duties as an
14 employee. No employee of the authority may engage in any form of political activity
15 calculated to favor or improve the chances of any political party or any person seeking
16 or attempting to hold partisan political office while engaged in his or her official
17 duties as an employee or engage in any political activity while not engaged in his or
18 her official duties as an employee to such an extent that the person's efficiency during
19 working hours will be impaired or that he or she will be tardy or absent from work.
20 Any violation of this subsection is adequate grounds for dismissal.

21 (2) If an employee of the authority declares an intention to run for partisan
22 political office, the employee shall be placed on a leave of absence for the duration
23 of the election campaign and if elected shall no longer be employed by the authority
24 on assuming the duties and responsibilities of such office.

1 (3) An employee of the authority may be granted, by the executive director, a
2 leave of absence to participate in partisan political campaigning.

****NOTE: The proposal refers to the chief executive officer. However, an executive director is appointed by the board under proposed s. 235.02 (2), so I referred to the executive director. Is that okay?

3 (4) Persons on leave of absence under sub. (2) or (3) are not subject to the
4 restrictions of sub. (1), except as they apply to the solicitation of assistance,
5 subscription, or support from any other employee in the authority.

6 **235.05 Cooperation.** To enhance the efficiency and effectiveness of the
7 authority, the authority shall use staff and other resources of state agencies,
8 including the University of Wisconsin System, and state agencies shall, to the extent
9 possible given their staff and other resources, provide assistance to the authority.

10 **235.06 Issuance of bonds.** (1) The authority may issue bonds for any
11 corporate purpose. All bonds are negotiable for all purposes, notwithstanding their
12 payment from a limited source.

****NOTE: For my own information, can you give me examples of the corporate purposes for which the authority would issue bonds? Also, do you want to allow bond proceeds to be used to guarantee loans under proposed s. 235.15? If so, it may be necessary to revise the draft, as the loan guarantees are funded by the Wisconsin Clean and Renewable Energy Reserve Fund (fund). Under proposed s. 235.16 (1) (a), the fund consists of moneys appropriated to the authority or received by the authority for the fund from any source. Would bond proceeds be considered moneys received by the authority for the fund? If not, the fund would not include the proceeds, and the proceeds would not be available for the loan guarantees. Also, proposed s. 235.16 (2) (b) prohibits the authority from using moneys other than those in the fund for the loan guarantees.

13 (2) The bonds of each issue shall be payable from sources specified in the bond
14 resolution under which the bonds are issued.

15 (3) The authority may not issue bonds unless the issuance is first authorized
16 by a bond resolution. Bonds shall bear the dates, mature at the times not exceeding
17 30 years from their dates of issue, bear interest at the rates, be payable at the times,
18 be in the denominations, be in the form, carry the registration and conversion

1 privileges, be executed in the manner, be payable in lawful money of the United
2 States at the places, and be subject to the terms of redemption, that the bond
3 resolution provides. The bonds shall be executed by the manual or facsimile
4 signatures of the officers of the authority designated by the board. The bonds may
5 be sold at public or private sale at the price, in the manner, and at the time
6 determined by the board. Pending preparation of definitive bonds, the authority may
7 issue interim receipts or certificates that the authority shall exchange for the
8 definitive bonds.

9 (4) Any bond resolution may contain provisions that shall be a part of the
10 contract with the holders of the bonds that are authorized by the bond resolution,
11 regarding any of the following:

12 (a) Pledging or assigning specified assets or revenues of the authority.

13 (b) Setting aside reserves or sinking funds, and the regulation, investment, and
14 disposition of these funds.

15 (c) Limitations on the purpose to which or the investments in which the
16 proceeds of the sale of any issue of bonds may be applied.

17 (d) Limitations on the issuance of additional bonds, the terms upon which
18 additional bonds may be issued and secured, and the terms upon which additional
19 bonds may rank on a parity with, or be subordinate or superior to, the bonds
20 authorized by the bond resolution.

21 (e) Funding, refunding, advance refunding, or purchasing outstanding bonds.

22 (f) Procedures by which the terms of any contract with bondholders may be
23 amended, the amount of bonds the holders of which must consent to the amendment,
24 and the manner in which this consent may be given.

1 (g) Defining the acts or omissions to act that constitute a default in the duties
2 of the authority to the bondholders, and providing the rights and remedies of the
3 bondholders in the event of a default.

4 (h) Other matters relating to the bonds that the board considers desirable.

5 (5) Neither the members of the board nor any person executing the bonds is
6 liable personally on the bonds or subject to any personal liability or accountability
7 by reason of the issuance of the bonds, unless the personal liability or accountability
8 is the result of willful misconduct.

9 **235.07 Bond security.** The authority may secure any bonds issued under this
10 chapter by a trust agreement, trust indenture, indenture of mortgage, or deed of
11 trust by and between the authority and one or more corporate trustees. The bond
12 resolution providing for the issuance of bonds so secured shall pledge some or all of
13 the revenues to be received by the authority, and may contain provisions for
14 protecting and enforcing the rights and remedies of the bondholders that are
15 reasonable and proper and not in violation of law. A bond resolution may contain any
16 other provisions that are determined by the board to be reasonable and proper for
17 the security of the bondholders.

18 **235.08 Bonds not public debt.** (1) The state is not liable on bonds of the
19 authority, and the bonds are not a debt of the state. Each bond of the authority shall
20 contain a statement to this effect on the face of the bond. The issuance of bonds under
21 this chapter does not, directly, indirectly, or contingently, obligate the state or any
22 political subdivision of the state to levy any tax or to make any appropriation for
23 payment of the bonds. Nothing in this section prevents the authority from pledging
24 its full faith and credit to the payment of bonds issued under this chapter.

1 (2) Nothing in this chapter authorizes the authority to create a debt of the state,
2 and all bonds issued by the authority under this chapter are payable, and shall state
3 that they are payable, solely from the funds pledged for their payment in accordance
4 with the bond resolution authorizing their issuance or in any trust indenture or deed
5 of trust executed as security for the bonds. The state is not liable for the payment
6 of the principal of or interest on any bonds of the authority or for the performance
7 of any pledge, mortgage, obligation, or agreement which may be undertaken by the
8 authority. The breach of any pledge, mortgage, obligation, or agreement undertaken
9 by the authority does not impose any pecuniary liability upon the state or any charge
10 upon its general credit or against its taxing power.

11 **235.09 State pledge.** The state pledges to and agrees with the holders of
12 bonds, and persons that enter into contracts with the authority under this chapter,
13 that the state will not limit or alter the rights vested in the authority by this chapter
14 before the authority has fully met and discharged the bonds, and any interest due
15 on the bonds, and has fully performed its contracts, unless adequate provision is
16 made by law for the protection of the bondholders or those entering into contracts
17 with the authority.

18 **235.10 Refunding bonds.** (1) The authority may issue bonds to fund or
19 refund any outstanding bond, including the payment of any redemption premium on
20 the outstanding bond and any interest accrued or to accrue to the earliest or any
21 subsequent date of redemption, purchase, or maturity.

22 (2) The authority may apply the proceeds of any bond issued to fund or refund
23 any outstanding bond to purchase, retire at maturity, or redeem any outstanding
24 bond. The authority may, pending application, place the proceeds in escrow to be

1 applied to the purchase, retirement at maturity, or redemption of any outstanding
2 bond at any time.

3 **235.11 Limit on amount of outstanding bonds.** The authority may not
4 have outstanding at any one time bonds in an aggregate principal amount exceeding
5 \$500,000,000, excluding bonds issued to refund outstanding bonds.

6 **235.12 Annual reports.** (1) The authority shall keep an accurate account of
7 all of its activities and of all of its receipts and expenditures, and shall annually in
8 January make a report of its activities, receipts, and expenditures to the governor
9 and the chief clerk of each house of the legislature, for distribution to the legislature
10 under s. 13.172 (2). The reports shall estimate the number of jobs created or
11 maintained as a result of the authority's activities, as well as the fiscal impacts and
12 savings resulting from those activities. The reporting of receipts and expenditures
13 shall be in a form approved by the state auditor. The state auditor may investigate
14 the affairs of the authority, may examine the properties and records of the authority,
15 and may prescribe methods of accounting and the rendering of periodical reports in
16 relation to activities undertaken by the authority.

~~***NOTE: The second sentence is based on your instruction for an annual report
on jobs and fiscal impacts.~~

17 (2) The authority, annually on July 1, shall file with the department of
18 administration and the joint legislative council a complete and current listing of all
19 forms, reports, and papers required by the authority to be completed by any person,
20 other than a governmental body, as a condition of obtaining the approval of the
21 authority or for any other reason. The authority shall attach a blank copy of each
22 such form, report, or paper to the listing.

1 **235.13 Confidentiality of certain records.** The authority shall maintain
2 the confidentiality of records or portions of records consisting of personal or financial
3 information provided by a person seeking a loan, loan guarantee, or other financial
4 assistance from the authority.

5 **235.14 Participation in loans. (1) DEFINITION.** In this section, "eligible
6 borrower" means a person to which all of the following apply:

****NOTE: The proposal defines "clean and renewable energy loan program" as the program under this section, which I did not include because I don't think use of a defined term is necessary.

7 (a) The person is an individual who resides in this state or a partnership or
8 corporation that operates in this state.

****NOTE: The proposal refers to a person who is a "natural person." However, under our drafting conventions, we prefer to use the term "individual" to refer to a human being. Throughout the draft, I have used the term "individual" instead of "natural person."

INSECT
29-9

~~235.14-9~~

9 (b) The person demonstrates a need for a loan for a clean or renewable energy
10 or biobased business in which the person is or will be engaged.

****NOTE: The proposal includes a separate requirement that the person must be or will be engaged in the business described above. I combined the requirements in the above to specify that the loan must be for the business.

****NOTE: The proposal refers to a biobased business, but I assume you want to refer to a clean or renewable energy or biobased business.

11 (c) The person demonstrates an ability to repay the loan described in par. (b).

12 (d) If the person is an individual, the individual's name does not appear, and
13 if the person is a corporation, no shareholder's name appears, and, if the person is
14 a partnership, no partner's name appears on the statewide support lien docket under
15 s. 49.854 (2) (b) or, if the name of the individual, a shareholder, or a partner appears
16 on that docket, the individual, shareholder, or partner provides to the authority a
17 payment agreement that has been approved by the county child support agency

1. under s. 59.53 (5) and that is consistent with rules promulgated under s. 49.858 (2)

2 (a).

3 (e) The person satisfies any other requirements prescribed by the authority.

****NOTE: The proposal defines "clean or renewable energy or biobased business loan" as a loan made by a participating lender to an eligible borrower under this section. However, I don't think it is necessary to use a defined term.

****NOTE: The proposal includes a definition for "participating lender," but that term is used only once in this section under the proposal, so I don't think a defined term is necessary.

4 (2) PARTICIPATION AGREEMENT WITH LENDER. A lender seeking to make a loan in
5 which the authority may participate under this section shall apply to the authority
6 for approval. If the lender is approved, the lender and the authority shall enter into
7 a participation agreement that shall provide for the contractual obligations of the
8 lender and the authority with respect to any loan transaction in which the authority
9 participates, the terms and conditions of loans in which the authority participates,
10 and other matters related to the lender's involvement in loans under this section.

11 (3) PARTICIPATION IN LOANS. (a) *In general.* The authority may participate, to
12 the extent provided in this subsection, in a loan to an eligible borrower made by a
13 lender with whom the authority enters into a participation agreement under sub. (2).
14 The authority may impose repayment or other terms for its portion of the loan that
15 are different from the lender's loan terms. The authority shall ensure that it obtains
16 a security interest for the loan.

****NOTE: I moved the proposal's subsections entitled "loans" and "maximum amount" to pars. (b) and (c) of this subsection. I also revised the first sentence of par. (a) to refer to "the extent provided in this subsection," instead of the "the extent provided in this section."

17 (b) *Loans.* The authority may participate in a loan under par. (a) for capital,
18 operating expenses, or both if all of the following apply:

****NOTE: Is it possible for loans to be made for purposes other than for capital, operating expenses, or both? If so, I would revise the above to refer to a loan, and revise proposed s. 235.14 (1) (b) to refer to a loan for capital, operating expenses, or both.

1 1. The collateral for the loan includes physical plant, equipment, machinery,
2 or other assets.

3 2. The loan does not exceed 80 percent of the appraised value of the collateral
4 for the loan.

5 3. The term of the loan does not exceed 10 years or, for the acquisition of land
6 or facilities, does not exceed 20 years.

7 (c) *Maximum amount.* The authority may not finance more than 50 percent or
8 \$25,000,000 whichever is less, of the principal of any loan under par. (a).

9 (4) FEES. The authority shall charge a fee for assistance provided under this
10 section to cover the costs of administering this section, including legal fees.

11 (5) GUIDELINES AND PROCEDURES. The authority shall adopt guidelines and
12 establish procedures for administering this section, including guidelines or
13 procedures related to all of the following:

~~****NOTE: I substituted "guidelines" for the proposal's references to "rules," because
the authority is not required to promulgate rules under ch. 227.~~

14 (a) Application procedures for eligible borrowers and for lenders seeking to
15 make loans in which the authority participates under this section.

16 (b) Approval requirements for lenders and additional eligibility requirements
17 for eligible borrowers.

18 (c) The terms of participation agreements under sub. (2).

19 (d) Repayment and security interest requirements.

20 (e) Procedural requirements for the authority's participation in loans.

21 (f) Auditing, inspection, and reporting requirements.

22 (g) Any other relevant matters.

23 **235.15 Loan guarantees.** (1) DEFINITIONS. In this section:

1 (a) "Guaranteed loan" means a loan that is guaranteed by the authority under
2 this section.

3 (b) "Participating lender" means a lender that has entered into a guarantee
4 agreement with the authority under s. 235.16 (2) (a).

****NOTE: The proposal refers to agreements under this section (i.e. proposed s. 235.15), but the section does not provide for agreements. I corrected the reference to agreements under s. 235.16(2)(a), because I assume you do not intend to refer to the agreements under proposed s. 235.14 (2)

****NOTE: The proposal includes definitions for "percentage of guarantee" and "security interest," but these terms are used only once in this section, and I don't think it is necessary to use defined terms.

5 (2) ELIGIBLE LOANS. ~~Except as provided in sub. (3j)~~ if the authority establishes
6 a loan guarantee program under s. 235.16 (2) (a) with a participating lender, the
7 authority may guarantee collection from the Wisconsin clean and renewable energy
8 reserve fund for a loan to a borrower under the program if all of the following apply:

****NOTE: The proposal refers to an exception provided in sub. (3j), but there is no sub. (3j) and I couldn't figure out the correct cross-reference. Please advise.

INSERT
32-9

****NOTE: I revised the proposal's language for the above to clarify that loans may be guaranteed only if they are made under a program established under s. 235.16(2)(a). Is that okay?

9 (a) The loan is to finance capital, operating expenses, or both of a clean or
10 renewable energy or biobased business.

****NOTE: What is the relationship between loans in which the authority participates under proposed s. 235.14 and loans that the authority guarantees under proposed s. 235.15? I assume that, even if the authority does not participate in a loan under proposed s. 235.14, the authority may nevertheless guarantee the loan under proposed s. 235.15. Is that correct? If not, the above language must be revised.

11 (b) The total outstanding principal amounts of all loans to the borrower that
12 are guaranteed under this section do not exceed an amount set annually by the
13 authority that may not exceed \$25,000,000.

14 (c) The rate of interest on the loan, including any origination fees or other
15 charges relating to the loan, does not exceed a rate determined by the authority after
16 considering the conditions of the financial market.

1 (d) If the authority will make a payment under sub. (5) with respect to the loan,
 2 the rate of interest on the loan for which the borrower is obligated, including any
 3 origination fees or other charges relating to the loan, does not exceed the rate
 4 determined under par. (c) minus a percentage determined by the authority that does
 5 not exceed 2 percent.

****NOTE: For my own information, can you clarify the relationship between the interest rates under pars. (c) and (d)? Also, should the above refer to a repayment under sub. (5), instead of a payment?

****NOTE: I revised the proposal language to clarify that the authority determines the subtracted percentage. Is that okay?

6 ~~d~~ (e) The participating lender obtains a security interest in physical plant,
 7 equipment, machinery, or other assets.

8 ~~e~~ (f) Unless waived by the authority, the borrower procures a business insurance
 9 policy that is approved by the authority and the proceeds of that policy are payable
 10 to the participating lender.

11 ~~f~~ (g) Unless extended by the authority, the loan term does not extend beyond 10
 12 years after the date that the participating lender disburses the loan or, if the loan is
 13 for the acquisition of land or facilities, the loan term does not extend beyond 20 years
 14 after the date that the participating lender disburses the loan.

****NOTE: Proposed s. 235.15 (3) establishes a deadline for extensions by a lender. Are those extensions subject to the limit above? If so, I would consider adding "subject to sub. (2) (g)" in s. 235.15 (3).

15 ~~g~~ (h) The proceeds of the loan are not applied to the outstanding balance of any
 16 other loan, except that, subject to sub. (4), the proceeds may be used to refinance a
 17 loan under this section.

18 ~~h~~ (i) The loan results in a new clean or renewable energy or bio-based business,
 19 an expansion of ~~such~~ an ^{eligible} existing business, or a new process, product, or service by
 20 ~~such~~ ^{an eligible} business.

If the loan is for an eligible business,

INSERT 34-1

***NOTE: The proposal refers to an expansion, or new process, product, or service, of a biobased business. However, I revised the above to refer also to a clean or renewable energy business. Is that okay?

1 (j) The borrower does not meet the participating lender's minimum standards
2 of creditworthiness to receive the loan in the normal course of the participating
3 lender's business.

4 (k) The participating lender considers the borrower's assets, cash flow, and
5 managerial ability sufficient to preclude voluntary or involuntary liquidation for the
6 loan term granted by the participating lender.

7 (L) The participating lender agrees to the percentage of guarantee established
8 for the loan by the authority.

eligible

INSERT 34-10

9 (m) If the ~~loan or renewable energy or biobased~~ business that is financed by
10 the loan is owned by ~~a person who is~~ an individual, the individual's name does not
11 appear, and if the person is a corporation, no shareholder's name appears, and, if the
12 person is a partnership, no partner's name appears, on the statewide support lien
13 docket under s. 49.854 (2) (b) or, if the name of the individual, a shareholder, or a
14 partner appears on that docket, the individual, shareholder, or partner provides to
15 the authority a payment agreement that has been approved by the county child
16 support agency under s. 59.53 (5) and that is consistent with rules promulgated
17 under s. 49.858 (2) (a).

****NOTE: The above paragraph corresponds to the subsection in the proposal entitled "Eligible clean or renewable energy or biobased business."

18 (3) EXTENSION. A participating lender may extend the term of a guaranteed
19 loan until no later than June 30 of the calendar year following the calendar year in
20 which the participating lender granted the loan.

21 (4) REFINANCING. (a) Except as provided in par. (b), proceeds of a guaranteed
22 loan may be used to refinance a guaranteed loan no more than one time.

1 (b) The proceeds of a guaranteed loan may be used to refinance a guaranteed
2 loan that has been refinanced one time if at least 60 percent of the principal amount
3 of the refinanced guaranteed loan has been repaid.

4 (5) GUARANTEE. The authority may guarantee repayment of no more than 90
5 percent of the principal of a guaranteed loan. The authority shall establish the
6 percentage of the unpaid principal of a guaranteed loan that will be guaranteed,
7 using the procedures described in the guarantee agreement under s. 235.16 (2) (a).
8 The authority may establish a single percentage for all guaranteed loans or establish
9 different percentages for guaranteed loans on an individual basis.

10 (6) ORIGINATION FEES. The authority shall charge a guarantee origination fee
11 on every guaranteed loan. The amount of the fee shall be a percentage, determined
12 by the authority, of each loan's guaranteed principal. The participating lender shall
13 collect the fee and remit it to the authority. The authority shall deposit all fees
14 received under this subsection in the Wisconsin clean and renewable energy reserve
15 fund to be used to guarantee loans under this section.

16 **235.16 Wisconsin clean and renewable energy reserve fund. (1)**
17 **ESTABLISHMENT OF FUND.** There is established under the jurisdiction and control of
18 the authority, for the purpose of providing funds for guaranteeing loans under
19 programs established under sub. (2) (a), a Wisconsin clean and renewable energy
20 reserve fund, consisting of all of the following:

****NOTE: I revised the above to refer to guaranteeing loans "under programs established under sub. (2) (a)."

21 (a) Moneys appropriated to the authority or received by the authority for the
22 Wisconsin clean and renewable energy reserve fund from any other source.

****NOTE: See my questions about appropriations in the NOTES following the creation of proposed s. 20.498 (1) (a).

INSERT 35-20

INSERT 36-4

1 (b) ~~Any income from investment of moneys in the Wisconsin clean and~~
2 ~~renewable energy reserve fund by the authority.~~

3 (c) Fees collected under s. 235.15 (6).

****NOTE: The proposal states the above fees are to be used for guaranteeing loans under s. 235.15. I don't think that language is necessary, as proposed s. 235.16 (1) (intro.) states that the purpose of the fund is to provide funds for guaranteeing loans under programs established under proposed s. 235.16 (2) (a). If I have mistaken your intent on this issue, please let me know.

4 (2) LOAN PROGRAMS. (a) The authority may enter into a guarantee agreement
5 with a lender to establish a loan program guaranteed by the Wisconsin clean and
6 renewable energy reserve fund. The authority may determine all of the following
7 consistent with the terms of the specific loan guarantee program;

****NOTE: The proposal frequently refers to programs guaranteed by funds from the Wisconsin clean and renewable energy reserve fund. I have simplified those references by referring instead to programs established under s. 235.16 (2) (a)

****NOTE: Why do you need to say "consistent with the terms of the specific loan guarantee program"? It sounds like those terms could trump the following requirements. Is that your intent?

8 1. The form of the ^{such an} agreement.
9 2. Any conditions upon which the authority may refuse to enter into such an
10 agreement.

11 3. Any procedures required to carry out the ^{such an} agreement, including default
12 procedures and procedures for determining the guaranteed percentage of each loan.

13 (b) The authority may not use any moneys other than those in the Wisconsin
14 clean and renewable energy reserve fund for programs established under par. (a).

15 (c) The authority may establish an eligibility criteria review panel, consisting
16 of experts in finance and in the subject area of a program established under par. (a),
17 to advise the authority about lending requirements and issues related to a program
18 established under par. (a).

or programs

****NOTE: The above allows a panel to be established for each loan guarantee program. Is that okay, or should only one panel be allowed for all of the loan guarantee programs?

1 (3) LOAN GUARANTEES; INCREASES OR DECREASES. (a) Except as provided in par.
2 (b), the total principal amount or total outstanding guaranteed principal amount of
3 all loans that the authority may guarantee under all of the programs established
4 under sub. (2) (a) may not exceed \$25,000,000.

5 (b) The authority may request the joint committee on finance to take action
6 under s. 13.10 to permit the authority to increase or decrease the total principal
7 amount or total outstanding guaranteed principal amount of loans that the authority
8 may guarantee under all of the programs established under sub. (2) (a), and the joint
9 committee on finance may take that action. Included with its request, the authority
10 shall provide a projection, for the next June 30, that compares the amounts required
11 on that date to pay outstanding claims and to fund guarantees under all of the
12 programs established under sub. (2) (a), and the balance remaining in the Wisconsin
13 clean and renewable energy reserve fund on that date after deducting those
14 amounts, if the increase or decrease is approved, with those amounts and the balance
15 remaining, if the increase or decrease is not approved.

16 (4) EXTENSION OF LOAN GUARANTEE PROGRAM. When the authority prepares a
17 fiscal estimate under s. 13.093 (2) (a) with respect to any bill that extends a program
18 established under sub. (2) (a), the authority shall include in its fiscal estimate a
19 projection, for the next June 30, that compares the amounts required on that date
20 to pay outstanding claims and to fund guarantees under all of the programs
21 established under sub. (2) (a), and the balance remaining in the Wisconsin clean and
22 renewable energy reserve fund on that date after deducting those amounts, if the

1 program is extended, with those amounts and the balance remaining if the program
2 is not extended.

***NOTE: The above appears to be based on s. 234.93 (3m), which applies to the Wisconsin Housing and Economic Development Authority. However, it does not appear that you want the authority created in this draft to be treated like a state agency that must prepare fiscal estimates. If you don't want the authority to be required to prepare fiscal estimates, I will delete the above. If you want to maintain the above, other changes are necessary to ensure that the authority must prepare fiscal estimates. Please let me know how you want to proceed on this issue.

***NOTE: The above refers to a bill that "extends" a program, but I'm not sure what that means. The authority is allowed to establish programs under proposed s. 235.13 (2) (a), which does not impose any limits on the duration of a program, so I'm not sure how a bill would extend a program. Can you clarify what you mean with respect to extending a program?

49

3 (5) BALANCE TRANSFER. (a) Annually on June 30, until no balance remains, the
4 authority shall transfer to the general fund any balance remaining in the Wisconsin
5 clean and renewable energy reserve fund on that date, after deducting an amount
6 sufficient for all of the following:

7 1. To pay all outstanding claims under the programs established under sub. (2)

8 (a).

9 2. To fund guarantees under all of the programs established under sub. (2) (a)
10 at a ratio of \$1 of reserve funding to \$4.50 of total outstanding principal and
11 outstanding guaranteed principal that the authority may guarantee under all of the
12 programs.

13 (b) Annually on August 31, the executive director of the authority shall provide
14 to the secretary of administration and the joint committee on finance a signed
15 statement that includes all of the following information:

16 1. The amounts on that date that are required to pay outstanding claims and
17 to fund guarantees under the programs established under sub. (2) (a).

18 2. An explanation of how the amounts under subd. 1. were determined.

1 3. The amount of the balance, if any, that remains in the Wisconsin clean and
2 renewable energy reserve fund after deducting the amounts under subd. 1. and the
3 amount that will be transferred to the general fund under par. (a).

4 4. A projection of what the amount under subds. 1. and 3. will be on June 30
5 in each of the next 2 years.

6 5 (6) LIMITATION ON LOAN GUARANTEES. The authority shall regularly monitor the
7 cash balance in the Wisconsin clean and renewable energy reserve fund. The
8 authority shall ensure that the cash balance in the fund is sufficient for the purposes
9 specified in sub. (b) (a) 1. and 2.

10 6 (7) ANNUAL REPORT. On or before November 1 annually, the authority shall
11 submit to the chief clerk of each house of the legislature for distribution under s.
12 13.172 (2) and to the joint committee on finance a report on the number and total
13 dollar amount of guaranteed loans under the programs established under sub. (2) (a),
14 the default rate on the loans, and any other information on the programs that the
15 authority determines is significant.

16 7 (8) MORAL OBLIGATION. Recognizing its moral obligation, the legislature
17 expresses its expectation that, if called upon to do so, it will make an appropriation
18 to meet all demands for funds guaranteed by the Wisconsin clean and renewable
19 energy reserve fund.

20 235.17 ~~Biological fuel, power, and product grant program.~~ (1) ~~From the~~
21 ~~appropriation under s. 20.498 (1) (b) the authority shall make grants to persons~~
22 ~~engaged in the commercialization of biological fuel, biological power, or biological~~
23 ~~products.~~ (INSEAT 39-23)

*NOTE: The proposal includes a definition for "biological fuel, power, and project grant" which I don't think is necessary. Also, that definition does not clarify what

for eligible projects or grants to eligible businesses or

constitutes a biological fuel, power, or product. It may be advisable to clarify what those terms mean. Also, you may want to clarify what the grants may be used for.

(2) A committee consisting of the secretary of agriculture trade and consumer protection, the secretary of natural resources, and chief executive officer of the Wisconsin Economic Development Corporation shall make grant determinations under this section in accordance with the guidelines adopted under sub. (3).

***NOTE: What do you mean by "grant determinations"? Does the committee get to decide who receives a grant or the amount of a grant? How does that power interact with the power of the authority to make grants under sub. (1)?

***NOTE: The proposal refers to "rules" adopted under sub. (3), which I changed to "guidelines" adopted under sub. (3).

(3) The authority shall adopt guidelines to govern grants under this section.

***NOTE: Do you want to clarify what issues the guidelines will address?

235.18 Additional powers. The authority may implement any of the following programs for the purpose of promoting the development of clean or renewable energy or biobased ~~business~~ ^{eligible businesses or projects} in this state: ^{eligible}

***NOTE: The proposal omits biobased business, which I included in the above.

(1) A revolving loan fund program pursuant to which the authority makes loans to finance clean or renewable energy or biobased ~~businesses~~ ^{eligible or projects}

***NOTE: What is the relationship of the above to the loans under proposed s. 235.14?

(2) An equity financing program to facilitate equity investments in renewable energy generation businesses owned and controlled by agricultural producers.

(3) A conservation trading program pursuant to which the authority acts as an intermediary in the aggregation and trading of environmental credits related to clean and renewable energy production.

***NOTE: Do you want to specify that the above includes renewable resource credits under s. 196.378 (3) which, one could argue, are "environmental" credits? Also note that some of the credits under s. 196.378 (3) are related to energy use, instead of energy production. See s. 196.378 (3) (a) 2.

INSEAT 41-7

1 (4) A program of technical assistance and business services to ~~clean or~~
2 ~~renewable energy or biobased~~ ^{eligible} businesses and community ^{-based} ~~clean or renewable energy~~
3 ~~or biobased projects.~~ INSEAT 41-3

NOTE: What is a community clean or renewable energy or biobased project?

4 (5) A program to obtain ~~technology~~ licenses and royalties on technologies
5 developed with the assistance of the authority.

6 (6) The acceptance of gifts and grants to carry out any of the powers of the
7 authority. for the authority

8 SECTION 50. 238.10 (1) of the statutes is amended to read:

9 238.10 (1) ALLOCATION. The corporation shall establish under 26 USC 146 and
10 administer a system for the allocation of the volume cap on the issuance of private
11 activity bonds, as defined under 26 USC 141 (a), among all municipalities, as defined
12 in s. 67.01 (5), and any corporation formed on behalf of those municipalities, and
13 among this state, the Wisconsin Health and Educational Facilities Authority, the
14 Wisconsin Aerospace Authority, the Wisconsin Renewable Energy Development
15 Authority, and the Wisconsin Housing and Economic Development Authority.

16 SECTION 51. 281.75 (4) (b) 3. of the statutes is amended to read:

17 281.75 (4) (b) 3. An authority created under subch. II of ch. 114 or ch. 231, 233,
18 234, 235, 237, or 238.

19 SECTION 52. 285.59 (1) (b) of the statutes is amended to read:

20 285.59 (1) (b) "State agency" means any office, department, agency, institution
21 of higher education, association, society, or other body in state government created
22 or authorized to be created by the constitution or any law which is entitled to expend
23 moneys appropriated by law, including the legislature and the courts, the Wisconsin
24 Housing and Economic Development Authority, the Bradley Center Sports and

1 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
2 Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace
3 Authority, the Wisconsin Renewable Energy Development Authority, the Wisconsin
4 Economic Development Corporation, and the Wisconsin Health and Educational
5 Facilities Authority.

6 **SECTION 53.** 600.01 (1) (b) 8m. of the statutes is created to read:

7 600.01 (1) (b) 8m. Guarantees of the Wisconsin Renewable Energy
8 Development Authority under s. 235.15.

~~****NOTE: The proposal also refers to guarantees under ss. 235.52 and 235.54, but those sections are not included in the proposal.~~

9 **SECTION 54.** 706.11 (1) (c) 2. of the statutes is amended to read:

10 706.11 (1) (c) 2. The Wisconsin Health and Educational Facilities Authority
11 created under ch. 231, the Wisconsin Housing and Economic Development Authority
12 created under ch. 234, the Wisconsin Renewable Energy Development Authority
13 created under ch. 235, or any other authority created by state law.

14 **SECTION 55. Nonstatutory provisions.**

15 (1) TERMS OF INITIAL MEMBERS OF BOARD. Notwithstanding the length of terms
16 specified for the members of the board of the Wisconsin Renewable Energy
17 Development Authority under section 235.02 (1) of the statutes, as created by this
18 act, the initial members of the board shall be appointed for the following terms:

19 (a) One member appointed under section 235.02 (1) (a) 1. of the statutes, as
20 created by this act, for a term expiring on July 1, 2016.

21 (b) One member appointed under section 235.02 (1) (a) 1. of the statutes, as
22 created by this act, for a term expiring on July 1, 2017.

1 (c) Two member^s appointed under section 235.02 (1) (a) 1. of the statutes, as
2 created by this act, for ¹ ~~a term~~^{2 terms} expiring on July 1, 2018.

3 (d) One member appointed under section 235.02 (1) (a) 2. of the statutes, as
4 created by this act, for a term expiring on July 1, 2019.

5 ~~***NOTE: Depending on when this bill is likely to pass, it may be necessary to revise
the above dates.~~

(END)

1

INSERT A:

This bill creates the Wisconsin Renewable Energy Development Authority (WREDA) and authorizes WREDA to implement programs for developing renewable resources, reducing energy consumption, and improving energy efficiency. An authority is a public body created by state law that is not a state agency. Under this bill, the board of WREDA consists of 11 members. Five members of the board are appointed by the governor with the advice and consent of the senate to four-year terms. One of those members must be a commercial lender and four must represent "eligible businesses," as defined in the bill and discussed below. The other members are the following or their designees: the secretary of natural resources; the secretary of agriculture, trade and consumer protection; the chief executive officer of the Wisconsin Economic Development Corporation; the chair of the public service commission; the dean of the University of Wisconsin-Madison College of Agriculture and Life Sciences; and the director of the Wisconsin alumni research foundation. The board must appoint an executive director and, subject to a maximum limit, determine the executive director's compensation.

The bill authorizes WREDA to issue bonds to carry out its functions, except that WREDA may generally have no more than \$500,000,000 in outstanding bonds at any time. WREDA's bonds are not state debt. The bill creates an individual and corporate income tax exemption for interest on bonds issued by WREDA. Also, WREDA's purchases are exempt from sales tax. The bill also makes an appropriation from the general fund to WREDA, and requires WREDA to enter into an agreement with the secretary of administration for repaying the appropriation from any surpluses.

Because WREDA is not a state agency, numerous requirements that apply to state agencies do not apply to WREDA. However, the bill treats WREDA like a state agency for the purpose of specified requirements, including the following: 1) WREDA is subject to the open meetings laws; 2) WREDA is subject to auditing by the Legislative Audit Bureau; 3) WREDA is treated like a state agency for purposes of requirements regarding lobbying; 4) the code of ethics for public officials and employees applies to WREDA; and 5) employees of WREDA are considered state employees for the purposes of state retirement benefits and health insurance coverage. WREDA is also subject to the open records law, except that personal and financial information provided by a person seeking financial assistance from WREDA is confidential.

As discussed below, the bill allows WREDA to implement programs for participating in loans, guaranteeing loans, and making grants. The bill also allows WREDA to implement other programs.

Loan participation. The bill allows WREDA to participate in loans made by lenders to eligible borrowers. The bill defines "eligible borrower" as an individual residing in this state, or a partnership or corporation operating in this state, who demonstrates a need for a loan for one of the following: 1) capital or operating expenses of an eligible business; or 2) any expenses of an eligible project. An "eligible business" is defined as a commercial entity that either 1) produces energy, fuels,

chemicals, or products primarily from renewable resources or agricultural, forestry, plant, or other biological materials; or 2) provides services related to reducing energy consumption or improving energy efficiency. "Eligible project" is defined as a project for reducing energy consumption or improving energy efficiency of a commercial entity. In addition, the project must involve constructing new plant, equipment, property, or facilities, or extending, improving, or adding to existing plant, equipment, property, or facilities. To qualify as an "eligible borrower," a person must demonstrate the ability to repay a loan. In addition, if the borrower is an individual, he or she must be in compliance with any applicable child support and related requirements.

The bill limits the WREDA's participation in a loan to financing not more than 50 percent, or \$25,000,000, whichever is less, of the principal of the loan. In addition, the lender must apply to WREDA for approval and enter into a participation agreement with WREDA. Also, WREDA must ensure that it obtains a security interest for the loan. The bill specifies other requirements, including requirements for collateral, length of terms, and fees, and allows WREDA to adopt guidelines and policies for loan participation.

Loan guarantees. The bill allows WREDA to establish programs with lenders for guaranteeing repayment of loans for financing either 1) capital or operating expenses of eligible businesses; or 2) expenses of eligible projects. "Eligible business" and "eligible project" are defined as described above. A loan is eligible for guarantee if the borrower does not meet the lender's minimum standards of creditworthiness. Also, new or expanded business must result for the commercial entity whose eligible business or project is the subject of the loan. In addition, if the borrower is an individual, he or she must be in compliance with any applicable child support and related requirements. The bill allows WREDA to guarantee repayment of not more than 90 percent of the principal of a loan. Other requirements apply to interest rates, security interests, length and extension of terms, business insurance, origination fees, refinancing, and guarantee agreements between WREDA and lenders. Also, the total outstanding amount of all loans to a borrower may not exceed \$25,000,000, or a lesser amount determined by WREDA.

The bill establishes a Wisconsin clean and renewable energy reserve fund (reserve fund) under WREDA's control, which is used for the guarantees described above. The bill prohibits WREDA from using any other moneys for the guarantees. WREDA may deposit into the reserve fund an amount that it determines from the appropriation the bill makes to WREDA from the general fund. The reserve fund also consists of income from WREDA's investment of reserve fund moneys, loan guarantee origination fees, and moneys received from other sources. In addition, the bill expresses the legislature's expectation that it will make appropriations to meet demands for funds guaranteed by the reserve fund. The bill generally limits WREDA to guaranteeing no more than \$25,000,000 in total loans, except that the bill allows the Joint Committee on Finance to increase or decrease that limit. The bill also requires WREDA to ensure that the cash balance in the reserve fund is sufficient for the following purposes: 1) paying outstanding claims; and 2) maintaining a ratio of \$1 of reserve funding to \$4.50 of total outstanding guarantees. If the cash balance

exceeds the amount required for those purposes, the bill requires WREDA annually to transfer the excess to the general fund.

Grant program. The bill authorizes ^ethe WREDA to make grants to eligible business and projects, as defined above, as well as to persons engaged in the commercialization of biological fuel, power, or products. WREDA must adopt guidelines for making the grants. The guidelines must provide for a committee to make determinations regarding grants, and the committee must consist of the secretary of agriculture, trade and consumer protection, the secretary of natural resources, and chief executive officer of the Wisconsin Economic Development Corporation. The guidelines may also allow the committee to make the grants on behalf of WREDA.

the

Other programs. The bill allows WREDA to implement the following to promote eligible businesses and projects, as defined above: 1) a revolving loan fund program to finance eligible businesses or projects; 2) an equity financing program for renewable energy generation businesses of agricultural producers; 3) a trading program for environmental credits related to clean and renewable energy production; 4) a technical assistance program for eligible businesses and certain community-based projects; and 5) a program for WREDA to obtain licenses and royalties on technologies developed with the assistance of the WREDA.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

INSERT 4-2:

SECTION 1. 13.95 (intro.) of the statutes is amended to read:

13.95 Legislative fiscal bureau. (intro.) There is created a bureau to be known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau shall be strictly nonpartisan and shall at all times observe the confidential nature of the research requests received by it; however, with the prior approval of the requester in each instance, the bureau may duplicate the results of its research for distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's designated employees shall at all times, with or without notice, have access to all state agencies, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Renewable Energy Development Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, and the Fox River Navigational System Authority, and to

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1 any books, records, or other documents maintained by such agencies or authorities
2 and relating to their expenditures, revenues, operations, and structure.

NOTE: NOTE: This section is shown as amended eff. 1-1-15 by 2013 Wis. Act 20. Prior to 1-1-15 it reads:NOTE:

3 13.95 Legislative fiscal bureau. There is created a bureau to be known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau shall be strictly
4 nonpartisan and shall at all times observe the confidential nature of the research requests received by it; however, with the prior approval of the requester in each
5 instance, the bureau may duplicate the results of its research for distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's designated employees
6 shall at all times, with or without notice, have access to all state agencies, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace
7 Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, and
8 the Fox River Navigational System Authority, and to any books, records, or other documents maintained by such agencies or authorities and relating to their
9 expenditures, revenues, operations, and structure.

10 **INSERT 16-2:**

11 **SECTION 2.** 70.11 (38o) of the statutes is created to read:

12 **70.11 (38o) WISCONSIN RENEWABLE ENERGY DEVELOPMENT AUTHORITY.**

13 Notwithstanding the provisions of s. 70.11 (intro.) that relate to leased property or
14 that impose other limitations, all property owned or leased by the Wisconsin
15 Renewable Energy Development Authority, provided that use of the property is
16 primarily related to the purposes of the authority.

History: 1971 c. 215; 1973 c. 333 and supp.; 1975 c. 39; 1977 c. 196 s. 131; 1977 c. 273, 418; 1979 c. 34; 1983 a. 27; 1991 a. 316; 1995 a. 27, 225; 1999 a. 185; 2001 a. 16; 2005 a. 25, 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7, 10, 220; 2013 a. 20.

17 **INSERT 19-9:**

18 **(5) "Eligible business"** means a commercial entity that does any of the
19 following:

20 (a) Produces energy, fuels, chemicals, or products primarily from renewable
21 resources or agricultural, forestry, plant, or other biological materials.

22 (b) Provides services related to reducing energy consumption or improving
23 energy efficiency.

24 **(6) "Eligible project"** means a project of a commercial entity to construct any
25 new plant, equipment, property, or facilities, or extend, improve, or add to existing
26 plant, equipment, property, or facilities, for the purpose of reducing energy
27 consumption or improving energy efficiency of the commercial entity.

28 **INSERT 19-10:**

1 (8) "Renewable resource" has the meaning given in s. 196.378 (1) (h).

2 **INSERT 21-21:**

3 are subject to subch. V of ch. 19

4 **INSERT 22-4:**

5 (5) No cause of action of any nature may arise against and no civil liability may
6 be imposed upon a member of the board for any act or omission in the performance
7 of his or her powers and duties under this chapter, unless the person asserting
8 liability proves that the act or omission constitutes willful misconduct.

9 **INSERT 29-9:**

10 (b) The person demonstrates a need for a loan for one of the following:

- 11 1. The capital, operating expenses, or both of an eligible business.
- 12 2. Any expenses of an eligible project.

14 **INSERT 32-9:**

15 (a) The loan is for financing one of the following:

- 16 1. The capital, operating expenses, or both of an eligible business.
- 17 2. Any expenses of an eligible project.

18 **INSERT 34-1:**

19 (i) If the loan is for an eligible project of a commercial entity, the loan results
20 in the creation or expansion of business for the commercial entity.

21 **INSERT 34-10:**

22 or if the eligible project that is financed by the loan is for ^{an} plant, equipment, property,
23 or facilities owned by an individual, [^]

24 **INSERT 35-20:**

1 (a) From the appropriation under s. 20.498 (1) (a), any amount the authority
2 determines to deposit ^{to} in the fund.
Λ

3 **INSERT 36-4:**

4 (d) Moneys received by the authority for the fund from any source other than
5 those specified in pars. (a) to (c).

6 **INSERT 39-23:**

7 The authority shall adopt guidelines for making grants under this section. The
8 guidelines shall provide for a committee to make determinations regarding grant
9 recipients and amounts. The committee shall consist of the secretary of agriculture,
10 trade and consumer protection, the secretary of natural resources, and ^{the} chief
Λ executive officer of the Wisconsin Economic Development Corporation. The
11 guidelines may also allow the committee to make grants on behalf of the authority.
12

13 **INSERT 41-3:**

14 for reducing energy consumption, improving energy efficiency, or promoting the use
15 of renewable resources

16 **INSERT 41-7:**

17 **235.19 Repayment to general fund.** The authority shall repay the amounts
18 appropriated under s. 20.498 (1) (a) to the general fund from that portion of the
19 authority's surplus, if any, as is determined pursuant to agreement between the
20 authority and the secretary of administration.

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

LRB-3924/1dn
MDK:.....



Date

Rep. Shankland:

Please review this version of the bill to make sure it achieves your intent. In particular, please note the following:

1. Under the previous version, the authority's loans, loan guarantees, grants, and other assistance was generally limited to clean or renewable energy or biobased businesses. You wanted to expand the foregoing to include businesses and projects that reduce energy consumption or improve energy efficiency. This version accomplishes that by creating definitions for "eligible business" and "eligible project." See proposed s. 235.01 (5) and (6). (The "eligible project" definition is based, in part, on the definition for certain public utility projects under s. 196.49 (3) (a).) Please review those definitions to make sure that they satisfy your intent. You should also note the related changes in the following: s. 235.02 (1) (a) 1. (requiring ⁴ members of the authority board to represent eligible businesses), ss. 235.14 (1) ^a 1. and 2. and 235.15 (2) (a) 1. and 2. (referring to loans for capital, operating expenses, or both of eligible businesses and loans for any expenses of eligible projects), s. 235.17 (grants for eligible businesses and projects), s. 235.18 (intro.) (promotion of eligible businesses or projects), s. 235.18 (1) (revolving loan fund for eligible businesses or projects), and s. 235.18 (4) (technical assistance to eligible businesses). (Sp)
2. "Eligible project" is defined to refer to certain projects involving ⁵ plant, equipment, property, or facilities of commercial entities. As a result, a project involving a residence would not qualify as an eligible project. However, a commercial entity that provides services related to energy consumption or efficiency for a residence might qualify for assistance as an eligible business. Is that okay?
3. Please review proposed s. 235.15 (2) (i), which is a requirement I created for loan guarantees for eligible projects. Is it okay? If not, do you want to substitute a different requirement?
4. The previous version of the bill contained the following language in s. 235.15 (2) (d), which I deleted from this version of the bill: "If the authority will make a payment under sub. (5) with respect to the loan, the rate of interest on the loan for which the borrower is obligated, including any origination fees or other charges relating to the loan, does not exceed the rate determined under par. (c) minus a percentage determined by the authority that does not exceed 2 percent." I deleted that language

because I'm not sure what it accomplishes and I don't think it applies to loan guarantees under the bill. The language appears to be based on s. 234.90 (2) (d), which applies to agricultural production loans guaranteed by the Wisconsin development reserve fund. However, s. 234.90 (2) (d) applies only to loans that are subject to s. 234.90 (5), which provides: "If at the time of origination or extension the interest rate on a guaranteed loan and the prime lending rate as reported by the federal reserve board in federal reserve statistical release H. 15 each equals or exceeds 10%, the authority shall pay, from the moneys in the Wisconsin development reserve fund, to the participating lender making the loan, an amount equal to 2% of the principal amount of the loan." The proposal on which the bill is based does not include language that is comparable to s. 234.90 (5). Therefore, I don't think that language based on s. 234.90 (2) (d) is necessary. However, if you think otherwise, let me know.

5. I did not change proposed s. 235.18 (2), which allows the authority to implement a an equity financing program for renewable resource generation businesses owned ^{and} (or) controlled by agricultural producers. Is that okay, or is it possible for an agricultural producer to own ^{and} (or) control a business for reducing energy consumption or improving energy efficiency? If so, let me know, and I will revise proposed s. 235.18 (2) to include those types of businesses.

6. Proposed s. 235.18 (4) allows the authority to implement a program of technical assistance to community-based programs for reducing energy consumption, improving energy efficiency, or promoting the use of renewable resources. "Community-based program" is not defined. If you think a definition is necessary, please let me know how you think it should be defined.

7. I revised proposed s. 235.18 (5) to specify that the authority obtains licenses and royalties, which is consistent with the analysis that was included in the proposal you provided for the bill.

Mark D. Kunkel
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3924/1dn
MDK:wlj:jf

February 13, 2014

Rep. Shankland:

Please review this version of the bill to make sure it achieves your intent. In particular, please note the following:

1. Under the previous version, the authority's loans, loan guarantees, grants, and other assistance was generally limited to clean or renewable energy or biobased businesses. You wanted to expand the foregoing to include businesses and projects that reduce energy consumption or improve energy efficiency. This version accomplishes that by creating definitions for "eligible business" and "eligible project." See proposed s. 235.01 (5) and (6). (The "eligible project" definition is based, in part, on the definition for certain public utility projects under s. 196.49 (3) (a).) Please review those definitions to make sure that they satisfy your intent. You should also note the related changes in the following: s. 235.02 (1) (a) 1. (requiring four members of the authority board to represent eligible businesses); ss. 235.14 (1) (b) 1. and 2. and 235.15 (2) (a) 1. and 2. (referring to loans for capital, operating expenses, or both of eligible businesses and loans for any expenses of eligible projects); s. 235.17 (grants for eligible businesses and projects); s. 235.18 (intro.) (promotion of eligible businesses or projects); s. 235.18 (1) (revolving loan fund for eligible businesses or projects); and s. 235.18 (4) (technical assistance to eligible businesses).

2. "Eligible project" is defined to refer to certain projects involving plants, equipment, property, or facilities of commercial entities. As a result, a project involving a residence would not qualify as an eligible project. However, a commercial entity that provides services related to energy consumption or efficiency for a residence might qualify for assistance as an eligible business. Is that okay?

3. Please review proposed s. 235.15 (2) (i), which is a requirement I created for loan guarantees for eligible projects. Is it okay? If not, do you want to substitute a different requirement?

4. The previous version of the bill contained the following language in s. 235.15 (2) (d), which I deleted from this version of the bill: "If the authority will make a payment under sub. (5) with respect to the loan, the rate of interest on the loan for which the borrower is obligated, including any origination fees or other charges relating to the loan, does not exceed the rate determined under par. (c) minus a percentage determined by the authority that does not exceed 2 percent." I deleted that language

because I'm not sure what it accomplishes and I don't think it applies to loan guarantees under the bill. The language appears to be based on s. 234.90 (2) (d), which applies to agricultural production loans guaranteed by the Wisconsin development reserve fund. However, s. 234.90 (2) (d) applies only to loans that are subject to s. 234.90 (5), which provides: "If at the time of origination or extension the interest rate on a guaranteed loan and the prime lending rate as reported by the federal reserve board in federal reserve statistical release H. 15 each equals or exceeds 10%, the authority shall pay, from the moneys in the Wisconsin development reserve fund, to the participating lender making the loan, an amount equal to 2% of the principal amount of the loan." The proposal on which the bill is based does not include language that is comparable to s. 234.90 (5). Therefore, I don't think that language based on s. 234.90 (2) (d) is necessary. However, if you think otherwise, let me know.

5. I did not change proposed s. 235.18 (2), which allows the authority to implement a an equity financing program for renewable resource generation businesses owned and controlled by agricultural producers. Is that okay, or is it possible for an agricultural producer to own and control a business for reducing energy consumption or improving energy efficiency? If so, let me know, and I will revise proposed s. 235.18 (2) to include those types of businesses.

6. Proposed s. 235.18 (4) allows the authority to implement a program of technical assistance to community-based programs for reducing energy consumption, improving energy efficiency, or promoting the use of renewable resources. "Community-based program" is not defined. If you think a definition is necessary, please let me know how you think it should be defined.

7. I revised proposed s. 235.18 (5) to specify that the authority obtains licenses and royalties, which is consistent with the analysis that was included in the proposal you provided for the bill.

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Barman, Mike

From: Rep.Shankland
Sent: Monday, March 17, 2014 9:52 AM
To: LRB.Legal
Subject: Draft Review: LRB -3924/1 Topic: Renewable energy authority

This is a rush request. Thank you!

Please Jacket LRB -3924/1 for the ASSEMBLY.