

2001 DRAFTING REQUEST

Bill

Received: 12/20/2001

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: Scott Becher

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Addl. Drafters:

Subject: Econ. Development - misc.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Wieckert@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Allow WHEFA to issue bonds for projects of cultural facilities

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 01/07/2002	gilfokm 01/10/2002		_____			State
/P1			kfollet 01/11/2002	_____	lrb_docadmin 01/11/2002		State
/1	kahlepj	gilfokm	jfrantze	_____	lrb_docadmin		

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	01/24/2002	01/24/2002	01/24/2002	_____	01/24/2002		
/2	kahlepj 01/25/2002	gilfokm 01/25/2002	pgreensl 01/25/2002	_____	lrb_docadmin 01/25/2002	lrb_docadmin 01/25/2002	

FE Sent For:

*none
needed*

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/P1		<i>1-1/24</i> <i>KMG</i>	kfollet 01/11/2002	_____	lrb_docadmin 01/11/2002		

[Handwritten signatures and dates]
1/24 *1/24*
1/24

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1?	kahlepj	1/11-1/10-02 kms	KJ 1/11	Bill pg 1/11			

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PJK

November 29, 2001

Mr. Lawrence R. Nines
Wisconsin Health and Educational Facilities Authority
18000 W. Sarah Lane, Suite 140
Brookfield, WI 53045-5841

RE: Cultural Facilities and Facilities of Section 501(c)(3) Organizations

Dear Larry:

You asked us for some ideas regarding how Chapter 231 might be amended to permit tax exempt financing for a broader range of charitable, non-profit organizations. It is the purpose of this letter to provide you with that information.

One alternative would be to amend Chapter 231 to include as eligible borrowers and eligible projects a fairly specific set of principally cultural facilities. This could be accomplished by amending Chapter 231.01 to include definitions of "cultural facility" and "participating cultural institution" in much the same way Chapter 231 was amended to permit the financing of educational facilities. Cultural facility could be defined as:

"Cultural facility" means any property of an entity described in Section 501(c)(3) of the Internal Revenue Code, as defined in s. 71.22(4), that is exempt from federal taxation under Section 501(a) of the Internal Revenue Code, which property is or will be suitable for use by a cultural institution including, without limitation, property suitable for use as or in connection with an administrative facility, aquarium, assembly hall, auditorium, botanical garden, building on the National Register of Historic Places, exhibition hall, gallery, greenhouse, library, museum, music hall, practice facility, scientific laboratory, theater or zoological facility, and which includes, without limitation, books, works of art or music, animal, plant or aquatic life or other items for display, exhibition or performance.

The definition of participating cultural institution could be patterned on the existing definition of participating educational institution.

Another alternative, which would authorize financings under Chapter 231 for a broader range of borrowers and projects, would be to amend Chapter 231 to include as eligible borrowers and eligible projects any project undertaken by an organization described in Section 501(c)(3) of the Internal Revenue Code which is not a health facility or an educational facility. This could be accomplished by amending Chapter 231.01 to include a definition of "qualified nonprofit facility" and "participating qualified nonprofit institution", again in much the same way Chapter 231 was amended to permit the financing of educational facilities. Qualified nonprofit facility could be defined as follows:

"Qualified nonprofit facility" means any property, other than a health facility or an educational facility, which is or will be suitable for use by an organization which is described in section 501(c)(3) of the Internal Revenue Code, as defined in s. 71.22(4), that is exempt from federal taxation under section 501(a) of the Internal Revenue Code.

Again, the definition of participating qualified nonprofit institution could be patterned after the existing definition of participating educational institution. This alternative would leave in place the current provisions of Chapter 231 which apply to health facilities and educational facilities.

A third, and even more broad, alternative would be to amend Chapter 231 to include as eligible borrowers and eligible projects any project undertaken by an organization described in Section 501(c)(3) of the Internal Revenue Code whether or not it is a health facility or an educational facility. This could be accomplished by amending Chapter 231.01 to include a definition of "qualified nonprofit facility" and "participating qualified nonprofit institution" and by deleting existing references to health facility, participating health institution, educational facility and participating educational institution. In this case, qualified nonprofit facility could be defined as follows:

"Qualified nonprofit facility" means any property which is or will be suitable for use by an organization which is described in section 501(c)(3) of the Internal Revenue Code, as defined in s. 71.22(4), that is exempt from federal taxation under section 501(a) of the Internal Revenue Code.

Again, the definition of participating qualified nonprofit institution could be patterned after the existing definition of participating educational institution.

In addition, there are numerous references throughout Chapter 231 to health faculties, participating health institutions, educational facilities and participating educational institutions. Each of those references would need to be amended to include references to either cultural facilities and participating cultural institutions or to qualified nonprofit facility and participating

Mr. Lawrence R. Nines
November 29, 2001
Page 3

qualified nonprofit institution, depending on which of the preceding alternatives was to be pursued.

We hope this information has been helpful to you. Should you have any questions or comments, please feel free to call.

Very truly yours,



John T. Whiting

JTW:ahb
cc: Scott Becher



King

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(inl-7)
Draft
(they would like
it this week)

you cut

1 AN ACT [✓]; relating to: authorizing the Wisconsin Health and Educational
2 Facilities Authority to issue bonds to finance projects related to cultural
3 facilities.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational institutions, to refinance outstanding debt of health or educational institutions, and to finance a purchase of the state's right to receive any of the payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. Projects of health or educational institutions that may be financed include, among others, the acquisition of a hospital, the construction or operation of an ambulatory surgery center or home health agency, and the construction, remodeling, furnishing, or equipping of a health or educational facility or related structure.

This bill authorizes WHEFA to issue bonds to finance any project undertaken by a cultural institution for a cultural facility, or to refinance outstanding debt of a cultural institution. A cultural institution is defined in the bill as a corporation, agency, or association that is authorized by state law to provide or operate a cultural facility. A cultural facility is defined in the bill as a building, institution, place, or agency of a nonprofit entity that is used for purposes of display, exhibition, or the performance arts. Project activities for which WHEFA may issue bonds include construction, acquisition, remodeling, furnishing, and equipping of cultural facilities, related structures, and structures that are useful for the operation of cultural facilities.

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

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

1 SECTION 1. 231.01 (4) (a) of the statutes is amended to read:

2 231.01 (4) (a) "Cost" means the sum of all costs incurred by a participating
3 health institution, participating educational institution, participating cultural
4 institution, or participating child care provider, as approved by the authority, as are
5 reasonable and necessary to accomplish the project, exclusive of any private or
6 federal, state, or local financial assistance received by the participating health
7 institution, participating educational institution, participating cultural institution,
8 or participating child care provider for the payment of the project cost.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

9 SECTION 2. 231.01 (4) (b) 1. of the statutes is amended to read:

10 231.01 (4) (b) 1. The cost incurred by or on behalf of the participating health
11 institution, participating educational institution, participating cultural institution,
12 or participating child care provider of all necessary developmental, planning and
13 feasibility studies, surveys, plans and specifications, architectural, engineering,
14 legal or other special services, the cost of acquisition of land and any buildings and
15 improvements on the land, site preparation and development including demolition
16 or removal of existing structures, construction, reconstruction and equipment,
17 including machinery, fixed equipment and personal property.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

18 SECTION 3. 231.01 (4) (b) 2. of the statutes is amended to read:

19 231.01 (4) (b) 2. The reasonable cost of financing incurred by a participating
20 health institution, participating educational institution, participating cultural

1 institution, or participating child care provider in the course of the development of
2 the project to the occupancy date.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

3 **SECTION 4.** 231.01 (4) (c) of the statutes is amended to read:

4 231.01 (4) (c) All rents and other net revenues from the operation of the real
5 property, improvements or personal property on the project site by a participating
6 health institution, participating educational institution, participating cultural
7 institution, or participating child care provider on and after the date on which the
8 contract between a participating health institution, participating educational
9 institution, participating cultural institution, or participating child care provider
10 and the authority was entered into, but prior to the occupancy date, shall reduce the
11 sum of all costs in this subsection.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

12 **SECTION 5.** 231.01 (4c) of the statutes is created to read:

13 231.01 (4c) "Cultural facility" means an institution, place, building, or agency
14 that satisfies all of the following:

15 (a) Is owned by an entity that is described in section 501 (c) (3) of the Internal
16 Revenue Code and that is exempt from federal income tax under section 501 (a) of
17 the Internal Revenue Code.

18 (b) Is or will be used for purposes of display, exhibition, or the performance arts.

****NOTE: Does this definition work for your purposes? It does not include all of the examples given in the suggested definition.

19 **SECTION 6.** 231.01 (5t) of the statutes is created to read:

20 231.01 (5t) "Participating cultural institution" means a corporation, agency, or
21 association that is authorized by state law to provide or operate a cultural facility and
22 that undertakes the financing and construction or acquisition of a project or

Is it too broad?

1 undertakes the refunding or refinancing of obligations or of a mortgage or of
2 advances as provided in this chapter.

3 SECTION 7. 231.01 (7) (a) 1. of the statutes is amended to read:

4 231.01 (7) (a) 1. A specific health facility, educational facility, cultural facility,
5 or child care center work or improvement to be refinanced, acquired, constructed,
6 enlarged, remodeled, renovated, improved, furnished² or equipped by the authority
7 with funds provided in whole or in part under this chapter.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

8 SECTION 8. 231.01 (7) (a) 2. of the statutes is amended to read:

9 231.01 (7) (a) 2. One or more structures suitable for use as a child care center,
10 cultural facility, health facility, laboratory, laundry, nurses' or interns' residence[✓] or
11 other multi-unit housing facility for staff, employees, patients[✓], or relatives of
12 patients admitted for treatment or care in a health facility, physician's facility,
13 administration building, research facility, maintenance, storage[✓] or utility facility.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

14 SECTION 9. 231.01 (7) (a) 4. of the statutes is amended to read:

15 231.01 (7) (a) 4. Any structure useful for the operation of a health facility,
16 educational facility, cultural facility, or child care center, including facilities or
17 supporting service structures essential or convenient for the orderly conduct of the
18 health facility, educational facility, cultural facility, or child care center.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

19 SECTION 10. 231.01 (7) (c) of the statutes is amended to read:

20 231.01 (7) (c) "Project" may include any combination of projects undertaken
21 jointly by any participating health institution, participating educational institution,
22 participating cultural institution, or participating child care provider with one or

1 more other participating health institutions, participating educational institutions,
2 participating cultural institutions, or participating child care providers.

History: 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16.

3 SECTION 11. 231.02 (6) (b) of the statutes is amended to read:

4 231.02 (6) (b) Notwithstanding any other provision of law, it is not a conflict
5 of interest or violation of this section or of any other law for a trustee, director, officer,
6 or employee of a participating health institution, participating educational
7 institution, participating cultural institution, or participating child care provider or
8 for a person having the required favorable reputation for skill, knowledge¹ and
9 experience in state and municipal finance or for a person having the required
10 favorable reputation for skill, knowledge² and experience in the field of health facility,
11 educational facility, cultural facility, or child care center architecture to serve as a
12 member of the authority; if in each case to which par. (a) is applicable, the trustee,
13 director, officer² or employee of the participating health institution, participating
14 educational institution, participating cultural institution, or participating child care
15 provider abstains from discussion, deliberation, action² and vote by the authority in
16 specific respect to any undertaking pursuant to this chapter in which his or her
17 participating health institution, participating educational institution, participating
18 cultural institution, or participating child care provider has an interest, or the
19 person having the required favorable reputation for skill, knowledge¹ and experience
20 in state and municipal finance abstains from discussion, deliberation, action² and
21 vote by the authority in specific respect to any sale, purchase² or ownership of bonds
22 of the authority in which any business of which such person is a participant, owner,
23 officer² or employee has a past, current² or future interest, or such person having the
24 required favorable reputation for skill, knowledge¹ and experience in the field of

1 health facility, educational facility, cultural facility, or child care center architecture
 2 abstains from discussion, deliberation, action and vote by the authority in specific
 3 respect to construction or acquisition of any project of the authority in which any
 4 business of which such person is a participant, owner, officer or employee has a past,
 5 current or future interest.

History: 1973 c. 304; 1975 c. 224; 1977 c. 29; 1979 c. 221; 1983 a. 192; 1987 a. 27, 403; 1991 a. 39, 316; 1993 a. 124.

6 SECTION 12. 231.03 (5) of the statutes is amended to read:

7 231.03 (5) Determine the location and character of any project to be financed
 8 under this chapter, and construct, reconstruct, remodel, maintain, enlarge, alter, add
 9 to, repair, lease as lessee or lessor and regulate the same, enter into contracts for any
 10 such purpose, enter into contracts for the management and operation of a project or
 11 other health facilities, educational facilities, cultural facilities, or child care centers
 12 owned by the authority, and designate a participating health institution,
 13 participating educational institution, participating cultural institution, or
 14 participating child care provider as its agent to determine the location and character
 15 of a project undertaken by the participating health institution, participating
 16 educational institution, participating cultural institution, or participating child care
 17 provider under this chapter and as the agent of the authority, to construct,
 18 reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease
 19 as lessee or lessor and regulate the same, and as the agent of the authority, to enter
 20 into contracts for any such purpose, including contracts for the management and
 21 operation of such project or other health facilities, educational facilities, cultural
 22 facilities, or child care centers owned by the authority.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

23 SECTION 13. 231.03 (6) (h) of the statutes is created to read:

1 231.03 (6) (h) Finance any project undertaken for a cultural facility by a
2 participating cultural institution.

 ***NOTE: Do you want this limited to projects undertaken by participating cultural institutions, or do you want to include any project undertaken for a cultural facility, regardless of by whom undertaken?

(r)

3 **SECTION 14.** 231.03 (6) (i) of the statutes is created to read:

4 231.03 (6) (i) Refinance outstanding debt of any participating cultural
5 institution.

6 **SECTION 15.** 231.03 (7) of the statutes is amended to read:

7 231.03 (7) Fix and revise from time to time and charge and collect rates, rents,
8 fees and charges for the use of and for the services furnished or to be furnished by
9 a project or other health facilities, educational facilities, cultural facilities, or child
10 care centers owned by the authority or any portion thereof, contract with any person
11 in respect thereto and coordinate its policies and procedures and cooperate with
12 recognized health facility, educational facility, cultural facility, or child care center
13 rate setting mechanisms.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

14 **SECTION 16.** 231.03 (8) of the statutes is amended to read:

15 231.03 (8) Adopt rules for the use of a project or other health facility,
16 educational facility, cultural facility, or child care center or any portion of the project
17 or facility owned, financed or refinanced in whole or in part by the authority,
18 including any property used as security for a loan secured through, from or with the
19 assistance of the authority. The authority may designate a participating health
20 institution, participating educational institution, participating cultural institution,
21 or participating child care provider as its agent to establish rules for the use of a
22 project or other health facilities, educational facilities, cultural facilities, or child

1 care centers undertaken for that participating health institution, participating
 2 educational institution, participating cultural institution, or participating child care
 3 provider. The rules shall ensure that a project, health facility, educational facility,
 4 cultural facility, child care center ^{or} or property may not be used primarily for sectarian
 5 instruction or study or as a place for devotional activities or religious worship.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

6 **SECTION 17.** 231.03 (11) of the statutes is amended to read:

7 231.03 (11) Establish or contract with others to carry out on its behalf a health
 8 facility, educational facility, cultural facility, or child care center project cost
 9 estimating service, and make this service available on all projects to provide expert
 10 cost estimates and guidance to the participating health institution, participating
 11 educational institution, participating cultural institution, or participating child care
 12 provider and to the authority. To implement this service and, through it, to
 13 contribute to cost containment, the authority may require such reasonable reports
 14 and documents from health facility, educational facility, cultural facility, or child care
 15 center projects as are required for this service and for the development of cost reports
 16 and guidelines. The authority shall appoint a technical committee on health facility,
 17 educational facility, cultural facility, or child care center project costs and cost
 18 containment.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

19 **SECTION 18.** 231.03 (13) of the statutes is amended to read:

20 231.03 (13) Make loans to any participating health institution, participating
 21 educational institution, participating cultural institution, or, before May 1, 2000,
 22 participating child care provider for the cost of a project in accordance with an
 23 agreement between the authority and the participating health institution,

1 participating educational institution, participating cultural institution, or
 2 participating child care provider. The authority may secure the loan by a mortgage
 3 or other security arrangement on the health facility, educational facility, cultural
 4 facility, or child care center granted by the participating health institution,
 5 participating educational institution, participating cultural institution, or
 6 participating child care provider to the authority. The loan may not exceed the total
 7 cost of the project as determined by the participating health institution,
 8 participating educational institution, participating cultural institution, or
 9 participating child care provider and approved by the authority.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

10 **SECTION 19.** 231.03 (14) of the statutes is amended to read:

11 231.03 (14) Make loans to a health facility, educational facility, cultural facility,
 12 or, before May 1, 2000, child care center for which bonds may be issued under sub.
 13 (6) (b), (d) or (f) to refinance the health facility's, educational facility's, cultural
 14 facility's, or child care center's outstanding debt. The authority may secure the loan
 15 or bond by a mortgage or other security arrangement on the health facility,
 16 educational facility, cultural facility, or child care center granted by the participating
 17 health institution, participating educational institution, participating cultural
 18 institution, or participating child care provider to the authority.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

19 **SECTION 20.** 231.03 (15) of the statutes is amended to read:

20 231.03 (15) Mortgage all or any portion of a project and other health facilities,
 21 educational facilities, cultural facilities, or child care centers and the site thereof,
 22 whether owned or thereafter acquired, for the benefit of the holders of bonds issued
 23 to finance the project, health facilities, educational facilities, cultural facilities, or

1 child care centers or any portion thereof or issued to refund or refinance outstanding
 2 indebtedness of participating health institutions, educational institutions,
 3 participating cultural institutions, or child care providers as permitted by this
 4 chapter.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

5 **SECTION 21. 231.03 (16)** of the statutes is amended to read:

6 231.03 (16) Lease to a participating health institution, participating
 7 educational institution, participating cultural institutions^e or participating child
 8 care provider the project being financed or other health facilities, educational
 9 facilities, cultural facilities, or child care centers conveyed to the authority in
 10 connection with such financing, upon such terms and conditions as the authority
 11 deems proper, and charge and collect rents therefor² and terminate any such lease
 12 upon the failure of the lessee to comply with any of the obligations thereof; and
 13 include in any such lease, if desired, provisions that the lessee thereof shall have
 14 options to renew the term of the lease for such periods and at such rent as the
 15 authority determines or to purchase all or any part of the health facilities,
 16 educational facilities, cultural facilities, or child care centers or that, upon payment
 17 of all of the indebtedness incurred by the authority for the financing of such project
 18 or health facilities, educational facilities, cultural facilities, or child care centers or
 19 for refunding outstanding indebtedness of a participating health institution,
 20 participating educational institution, participating cultural institution, or
 21 participating child care provider, the authority may convey all or any part of the
 22 project or such other health facilities, educational facilities, cultural facilities, or
 23 child care centers to the lessees thereof with or without consideration.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

1 SECTION 22. 231.03 (17) of the statutes is amended to read:

2 231.03 (17) Charge to and apportion among participating health institutions,
3 participating educational institutions, participating cultural institutions, and
4 participating child care providers its administrative costs and expenses incurred in
5 the exercise of the powers and duties conferred by this chapter.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

6 SECTION 23. 231.03 (18) of the statutes is amended to read:

7 231.03 (18) Make studies of needed health facilities, educational facilities,
8 cultural facilities, and child care centers that could not sustain a loan were it made
9 under this chapter and recommend remedial action to the legislature; and do the
10 same with regard to any laws or rules that prevent health facilities, educational
11 facilities, cultural facilities, and child care centers from benefiting from this chapter.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

12 SECTION 24. 231.03 (19) of the statutes is amended to read:

13 231.03 (19) Obtain, or aid in obtaining, from any department or agency of the
14 United States or of this state or any private company, any insurance or guaranty
15 concerning the payment or repayment of, interest or principal, or both, or any part
16 thereof, on any loan, lease^{or} obligation or any instrument evidencing or securing the
17 same, made or entered into under the provisions of this chapter; and
18 notwithstanding any other provisions of this chapter, to enter into ^{any} agreement,
19 ^{contract} or ~~any~~ other instrument with respect to that insurance or guaranty, to
20 accept payment in the manner and form provided therein in the event of default by
21 a participating health institution, participating educational institution,

1 participating cultural institution, or participating child care provider, and to assign
2 the insurance or guaranty as security for the authority's bonds.

History: 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16.

3 **SECTION 25.** 231.04 of the statutes is amended to read:

4 **231.04 Expenses.** All expenses of the authority incurred in carrying out this
5 chapter shall be payable solely from funds provided under the authority of this
6 chapter, and no liability may be incurred by the authority beyond the extent to which
7 moneys have been provided under this chapter except that, for the purposes of
8 meeting the necessary expenses of initial organization and operation of the authority
9 for the period commencing on June 19, 1974 and continuing until such date as the
10 authority derives moneys from funds provided to it under the authority of this
11 chapter, the authority may borrow such moneys as it requires to supplement the
12 funds provided under s. 20.440. Such moneys borrowed by the authority shall
13 subsequently be charged to and apportioned among participating health
14 institutions, participating educational institutions, participating cultural
15 institutions, and participating child care providers in an equitable manner, and
16 repaid with appropriate interest over a reasonable period of time.

History: 1973 c. 304; 1987 a. 27; 1993 a. 124.

17 **SECTION 26.** 231.05 (1) of the statutes is amended to read:

18 **231.05 (1)** By means of this chapter, it is the intent of the legislature to provide
19 assistance and alternative methods of financing to nonprofit health institutions to
20 aid them in providing needed health services consistent with the state's health plan,
21 to nonprofit educational institutions to aid them in providing needed educational
22 services, to nonprofit cultural institutions to aid them in providing needed cultural

1 facilities, and to nonprofit child care providers to aid them in providing needed child
2 care services.

3 History: 1973 c. 304; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1987 a. 27; 1993 a. 124.

3 **SECTION 27.** 231.06 of the statutes is amended to read:

4 **231.06 Property acquisition.** The authority may acquire, directly or by and
5 through a participating health institution, participating educational institution,
6 participating cultural institution, or participating child care provider as its agent,
7 by purchase or by gift or devise, such lands, structures, property, rights,
8 ~~rights-of-way~~, franchises, easements² and other interests in lands, including lands
9 lying under water and riparian rights, which are located within this state as it deems
10 necessary or convenient for the construction or operation of a project, upon such
11 terms and at such prices as it considers reasonable and can be agreed upon between
12 it and the owner thereof, and take title thereto in the name of the authority or in the
13 name of a health facility, educational facility, cultural facility, or child care center as
14 its agent.

15 History: 1973 c. 304; 1977 c. 29; 1987 a. 27; 1993 a. 124.

15 **SECTION 28.** 231.07 (1) (b) of the statutes is amended to read:

16 231.07 (1) (b) Convey to the participating health institution, participating
17 educational institution, participating cultural institution, or participating child care
18 provider the authority's interest in the project and in any other health facility,
19 educational facility, cultural facility, or child care center leased, mortgaged² or subject
20 to a deed of trust or any other form of security arrangement to secure the bond.

21 History: 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124.

21 **SECTION 29.** 231.07 (2) (a) of the statutes is amended to read:

22 231.07 (2) (a) The principal of and interest on any bond issued by the authority
23 to finance a project or to refinance or refund outstanding indebtedness of one or more
24 participating health institutions, participating educational institutions,

1 participating cultural institutions, or participating child care providers, including
2 any refunding bonds issued to refund and refinance the bond, have been fully paid
3 and the bonds retired or if the adequate provision has been made to pay fully and
4 retire the bond; and ✓

History: 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124.

5 **SECTION 30.** 231.08 (5) of the statutes is amended to read:

6 231.08 (5) In addition to the other authorizations under this section, bonds of
7 the authority may be secured by a pooling of leases whereby the authority may assign
8 its rights, as lessor, and pledge rents under 2 or more leases of health facilities,
9 educational facilities, cultural facilities, or child care centers with 2 or more health
10 institutions, educational institutions, cultural institutions, or child care providers,
11 as lessees respectively, upon such terms as may be provided for in bond resolutions
12 of the authority.

History: 1973 c. 304; 1977 c. 317; 1987 a. 27; 1993 a. 124; 1999 a. 120.

13 **SECTION 31.** 231.10 (1) of the statutes is amended to read:

14 231.10 (1) The state is not liable on notes or bonds of the authority and the notes
15 and bonds are not a debt of the state. All notes and bonds of the authority shall
16 contain on the face thereof a statement to this effect. The issuance of bonds under
17 this chapter shall not, directly or indirectly or contingently, obligate the state or any
18 political subdivision thereof to levy any form of taxation therefor or to make any
19 appropriation for their payment. Nothing in this section prevents the authority from
20 pledging its full faith and credit or the full faith and credit of a health institution,
21 educational institution, cultural institution, or child care provider to the payment of
22 bonds authorized under this chapter.

History: 1973 c. 304; 1977 c. 29; 1987 a. 27; 1993 a. 124.

23 **SECTION 32.** 231.12 of the statutes is amended to read:

1 **231.12 Studies and recommendations.** It is the intent and purpose of this
2 chapter that the exercise by the authority of the powers granted to it shall be in all
3 respects for the benefit of the people of this state to assist them to provide needed
4 health facilities, educational facilities, cultural facilities, and child care centers of
5 the number, size, type, distribution and operation that will assure admission and
6 health care, education, cultural opportunities, or child care of high quality to all who
7 need it. The authority shall identify and study all projects which are determined by
8 health planning agencies to be needed, but which could not sustain a loan were such
9 to be made to it under this chapter. The authority shall formulate and recommend
10 to the legislature such amendments to this and other laws, and such other specific
11 measures as grants, loan guarantees, interest subsidies or other actions the state
12 may provide which would render the construction and operation of needed health
13 facilities, educational facilities, cultural facilities, and child care centers feasible and
14 in the public interest. The authority also shall identify and study any laws or rules
15 which it finds handicaps or bars a needed health facility, educational facility, cultural
16 facility, or child care center from participating in the benefits of this chapter, and
17 recommend to the legislature such actions as will remedy such situation.

History: 1973 c. 304; 1987 a. 27; 1993 a. 124.

18 **SECTION 33.** 231.13 (1) (intro.) of the statutes is amended to read:

19 231.13 (1) (intro.) The authority shall collect rents for the use of, or other
20 revenues relating to the financing of, each project. The authority shall contract with
21 a participating health institution, participating educational institution,
22 participating cultural institution, or participating child care provider for each
23 issuance of bonds. The contract shall provide that the rents or other revenues

1 payable by the health facility, educational facility, cultural facility, or child care
2 center shall be sufficient at all times to:

3 History: 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124; 1995 a. 27.

3 SECTION 34. 231.13 (2) of the statutes is amended to read:

4 231.13 (2) The authority shall pledge the revenues derived and to be derived
5 from a project and other related health facilities, educational facilities, cultural
6 facilities, or child care centers for the purposes specified in sub. (1), and additional
7 bonds may be issued which may rank on a parity with other bonds relating to the
8 project to the extent and on the terms and conditions provided in the bond resolution.
9 Such pledge shall be valid and binding from the time when the pledge is made, the
10 revenues so pledged by the authority shall immediately be subject to the lien of such
11 pledge without any physical delivery thereof or further act and the lien of any such
12 pledge shall be valid and binding as against all parties having claims of any kind in
13 tort, contract² or otherwise against the authority, irrespective of whether such parties
14 have notice thereof. Neither the bond resolution nor any financing statement,
15 continuation statement² or other instrument by which a pledge is created or by which
16 the authority's interest in revenues is assigned need be filed or recorded in any public
17 records in order to perfect the lien thereof as against 3rd parties, except that a copy
18 thereof shall be filed in the records of the authority and with the department of
19 financial institutions.

20 History: 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124; 1995 a. 27.

20 SECTION 35. 231.16 (1) of the statutes, as affected by 2001 Wisconsin Act 16,
21 is amended to read:

22 231.16 (1) The authority may issue bonds to refund any outstanding bond of
23 the authority or indebtedness that a participating health institution, participating
24 educational institution, participating cultural institution, or participating child care

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

History: 1973 c. 304; 1979 c. 221; 1987 a. 27; 1993 a. 124; 2001 a. 16.

12 **SECTION 36.** 231.20 of the statutes is amended to read:

13 **231.20 Waiver of construction and bidding requirements.** In exercising
 14 its powers under s. 101.12, the department of commerce or any city, village, town² or
 15 county may, within its discretion for proper cause shown, waive any particular
 16 requirements relating to public buildings, structures, grounds, works² and
 17 improvements imposed by law upon projects under this chapter; the requirements
 18 of s. 101.13 may not be waived, however. If, however, the prospective lessee so
 19 requests in writing, the authority shall, through the participating health institution,
 20 participating educational institution, participating cultural institution, or
 21 participating child care provider as its agent, call for construction bids in such
 22 manner as is determined by the authority with the approval of the lessee.

History: 1973 c. 304; 1983 a. 27; 1987 a. 27; 1993 a. 124; 1995 a. 27 ss. 6298, 9116 (5).

23 **SECTION 37.** 231.23 of the statutes is amended to read:

1 **231.23 Nonprofit institutions.** It is intended that all nonprofit health and
2 institutions, educational institutions, cultural institutions, and child care providers
3 in this state be enabled to benefit from and participate in this chapter. To this end,
4 all nonprofit health and institutions, educational institutions, cultural institutions,
5 and child care providers operating, or authorized to be operated, under any law of
6 this state may undertake projects and utilize the capital financing sources and
7 methods of repayment provided by this chapter, the provisions of any other laws to
8 the contrary notwithstanding.

9 History: 1973 c. 304; 1987 a. 27; 1993 a. 124.

(END)

D-note

See the questions after ss. 231.01(4c)
(b) and 231.03(6)(h) in the draft.

FJK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4465/P1dn
PJK:kmg:kjf

January 11, 2002

See the questions after ss. 231.01 (4c) (b) and 231.03 (6) (h) in the draft.

Pamela J. Kahler
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Wisconsin Health and Educational Facilities Authority
18000 West Sarah Lane, Suite 140
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LAWRENCE R. NINES
EXECUTIVE DIRECTOR

FACSIMILE TRANSMISSION COVER SHEET

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FROM: LARRY NINES
OF PAGES INCLUDING COVER SHEET: 3

COMMENTS:

PLEASE CALL (262) 792-0466 IF YOU EXPERIENCE ANY PROBLEM IN RECEIPT OF THESE PAGES.

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January 17, 2002

Mr. Lawrence R. Nines
Wisconsin Health and Educational Facilities Authority
18000 W. Sarah Lane, Suite 140
Brookfield, WI 53045-5841

RE: Cultural Facilities

Dear Larry:

You forwarded to us proposed legislation designed to permit the Wisconsin Health and Educational Facilities Authority to issue bonds to finance projects for cultural facilities and asked for our comments on it.

Our comments generally respond to the drafters notes included in the proposal.

First, the drafter asks whether the definition of a "cultural facility" is too broad and notes that the examples of eligible facilities which had been provided to them had not been included in the draft. We assume the list of examples was not included so that the definition of cultural facility would look more like the fairly streamlined definitions of health facility and educational facility which are already in Chapter 231. We think, however, that the idea of a cultural facility is sufficiently vague that some additional detail would be helpful. Perhaps the list of examples previously supplies to the drafter could be pared down a bit without sacrificing the essence of what you are trying to accomplish by having Section 231.01(4c)(b) read something like the following:

Is or will be used in whole or in part as a facility for the performing or visual arts, a facility for the display of art, music, animals, plants, aquatic life or other items of a cultural interest, a library, a museum, a broadcasting facility, or a facility related to other cultural arts activities, including the items for display or exhibition, and any related property.

QBMAD\319621.2

Mr. Lawrence R. Nines
January 17, 2002
Page 2

The drafter also asks whether the definition of participating cultural institution is needed. We think that provision makes Chapter 231 internally consistent as the provisions for both health care facilities and educational facilities have such a companion definition, and that it would not be a material impediment to persons wishing to finance a cultural facility. It is therefore, we believe, an acceptable provision.

The balance of the proposed legislation appears to us to be appropriate. References to cultural facilities and participating cultural institutions has been made in the appropriate places.

We hope this information has been helpful to you. Should you have any questions or comments, please feel free to call.

Very truly yours,

John T. Whiting

JTW:ahb
cc: Scott Becher



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4465/1

PJK:kmg:kjf

r m is run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

D-note
(Wanted today
& said we'd try to
get it over this week)

Sen. Coit.

1 AN ACT to amend 231.01 (4) (a), 231.01 (4) (b) 1., 231.01 (4) (b) 2., 231.01 (4) (c),
2 231.01 (7) (a) 1., 231.01 (7) (a) 2., 231.01 (7) (a) 4., 231.01 (7) (c), 231.02 (6) (b),
3 231.03 (5), 231.03 (7), 231.03 (8), 231.03 (11), 231.03 (13), 231.03 (14), 231.03
4 (15), 231.03 (16), 231.03 (17), 231.03 (18), 231.03 (19), 231.04, 231.05 (1),
5 231.06, 231.07 (1) (b), 231.07 (2) (a), 231.08 (5), 231.10 (1), 231.12, 231.13 (1)
6 (intro.), 231.13 (2), 231.16 (1), 231.20 and 231.23; and to create 231.01 (4c),
7 231.01 (5t), 231.03 (6) (h) and 231.03 (6) (i) of the statutes; relating to:
8 authorizing the Wisconsin Health and Educational Facilities Authority to issue
9 bonds to finance projects related to cultural facilities.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational institutions, to refinance outstanding debt of health or educational institutions, and to finance a purchase of the state's right to receive any of the payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. Projects of health or educational institutions that may be financed include, among others, the acquisition of a hospital, the construction or operation of an ambulatory

surgery center or home health agency, and the construction, remodeling, furnishing, or equipping of a health or educational facility or related structure.

This bill authorizes WHEFA to issue bonds to finance any project undertaken by a cultural institution for a cultural facility, or to refinance outstanding debt of a cultural institution. A cultural institution is defined in the bill as a corporation, agency, or association that is authorized by state law to provide or operate a cultural facility. A cultural facility is defined in the bill as a building, institution, place, or agency of a nonprofit entity that is ~~used for purposes of display, exhibition, or the performance of~~ Project activities for which WHEFA may issue bonds include construction, acquisition, remodeling, furnishing, and equipping of cultural facilities, related structures, and structures that are useful for the operation of cultural facilities.

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

Insert A

or items

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

1 SECTION 1. 231.01 (4) (a) of the statutes is amended to read:

2 231.01 (4) (a) "Cost" means the sum of all costs incurred by a participating
3 health institution, participating educational institution, participating cultural
4 institution, or participating child care provider, as approved by the authority, as are
5 reasonable and necessary to accomplish the project, exclusive of any private or
6 federal, state, or local financial assistance received by the participating health
7 institution, participating educational institution, participating cultural institution,
8 or participating child care provider for the payment of the project cost.

9 SECTION 2. 231.01 (4) (b) 1. of the statutes is amended to read:

10 231.01 (4) (b) 1. The cost incurred by or on behalf of the participating health
11 institution, participating educational institution, participating cultural institution,
12 or participating child care provider of all necessary developmental, planning, and
13 feasibility studies, surveys, plans, and specifications, architectural, engineering,
14 legal, or other special services, the cost of acquisition of land and any buildings and

1 improvements on the land, site preparation, and development including demolition
2 or removal of existing structures, construction, reconstruction, and equipment,
3 including machinery, fixed equipment, and personal property.

4 SECTION 3. 231.01 (4) (b) 2. of the statutes is amended to read:

5 231.01 (4) (b) 2. The reasonable cost of financing incurred by a participating
6 health institution, participating educational institution, participating cultural
7 institution, or participating child care provider in the course of the development of
8 the project to the occupancy date.

9 SECTION 4. 231.01 (4) (c) of the statutes is amended to read:

10 231.01 (4) (c) All rents and other net revenues from the operation of the real
11 property, improvements, or personal property on the project site by a participating
12 health institution, participating educational institution, participating cultural
13 institution, or participating child care provider on and after the date on which the
14 contract between a participating health institution, participating educational
15 institution, participating cultural institution, or participating child care provider
16 and the authority was entered into, but prior to the occupancy date, shall reduce the
17 sum of all costs in this subsection.

18 SECTION 5. 231.01 (4c) of the statutes is created to read:

19 231.01 (4c) "Cultural facility" means an institution, place, building, or agency
20 that satisfies all of the following:

21 (a) Is owned by an entity that is described in section 501 (c) (3) of the Internal
22 Revenue Code and that is exempt from federal income tax under section 501 (a) of
23 the Internal Revenue Code.

24

(b) Is or will be used ~~for~~ for purposes of display, exhibition, or the performance arts

Insert 3-24

~~***NOTE: Does this definition work for your purposes? Is it too broad? It does not include all of the examples given in the suggested definition.~~

1 **SECTION 6.** 231.01 (5t) of the statutes is created to read:

2 231.01 (5t) "Participating cultural institution" means a corporation, agency, or
3 association that is authorized by state law to provide or operate a cultural facility and
4 that undertakes the financing and construction or acquisition of a project or
5 undertakes the refunding or refinancing of obligations or of a mortgage or of
6 advances as provided in this chapter.

7 **SECTION 7.** 231.01 (7) (a) 1. of the statutes is amended to read:

8 231.01 (7) (a) 1. A specific health facility, educational facility, cultural facility,
9 or child care center work or improvement to be refinanced, acquired, constructed,
10 enlarged, remodeled, renovated, improved, furnished, or equipped by the authority
11 with funds provided in whole or in part under this chapter.

12 **SECTION 8.** 231.01 (7) (a) 2. of the statutes is amended to read:

13 231.01 (7) (a) 2. One or more structures suitable for use as a child care center,
14 cultural facility, health facility, laboratory, laundry, nurses' or interns' residence or
15 other multi-unit housing facility for staff, employees, patients or relatives of
16 patients admitted for treatment or care in a health facility, physician's facility,
17 administration building, research facility, maintenance, storage, or utility facility.

18 **SECTION 9.** 231.01 (7) (a) 4. of the statutes is amended to read:

19 231.01 (7) (a) 4. Any structure useful for the operation of a health facility,
20 educational facility, cultural facility, or child care center, including facilities or
21 supporting service structures essential or convenient for the orderly conduct of the
22 health facility, educational facility, cultural facility, or child care center.

23 **SECTION 10.** 231.01 (7) (c) of the statutes is amended to read:

1 231.01 (7) (c) “Project” may include any combination of projects undertaken
2 jointly by any participating health institution, participating educational institution,
3 participating cultural institution, or participating child care provider with one or
4 more other participating health institutions, participating educational institutions,
5 participating cultural institutions, or participating child care providers.

6 **SECTION 11.** 231.02 (6) (b) of the statutes is amended to read:

7 231.02 (6) (b) Notwithstanding any other provision of law, it is not a conflict
8 of interest or violation of this section or of any other law for a trustee, director, officer,
9 or employee of a participating health institution, participating educational
10 institution, participating cultural institution, or participating child care provider or
11 for a person having the required favorable reputation for skill, knowledge, and
12 experience in state and municipal finance or for a person having the required
13 favorable reputation for skill, knowledge, and experience in the field of health
14 facility, educational facility, cultural facility, or child care center architecture to serve
15 as a member of the authority; if in each case to which par. (a) is applicable, the
16 trustee, director, officer, or employee of the participating health institution,
17 participating educational institution, participating cultural institution, or
18 participating child care provider abstains from discussion, deliberation, action, and
19 vote by the authority in specific respect to any undertaking pursuant to this chapter
20 in which his or her participating health institution, participating educational
21 institution, participating cultural institution, or participating child care provider
22 has an interest, or the person having the required favorable reputation for skill,
23 knowledge, and experience in state and municipal finance abstains from discussion,
24 deliberation, action, and vote by the authority in specific respect to any sale,
25 purchase, or ownership of bonds of the authority in which any business of which such

1 person is a participant, owner, officer, or employee has a past, current, or future
2 interest, or such person having the required favorable reputation for skill,
3 knowledge, and experience in the field of health facility, educational facility, cultural
4 facility, or child care center architecture abstains from discussion, deliberation,
5 action, and vote by the authority in specific respect to construction or acquisition of
6 any project of the authority in which any business of which such person is a
7 participant, owner, officer, or employee has a past, current, or future interest.

8 **SECTION 12.** 231.03 (5) of the statutes is amended to read:

9 231.03 (5) Determine the location and character of any project to be financed
10 under this chapter, and construct, reconstruct, remodel, maintain, enlarge, alter, add
11 to, repair, lease as lessee or lessor and regulate the same, enter into contracts for any
12 such purpose, enter into contracts for the management and operation of a project or
13 other health facilities, educational facilities, cultural facilities, or child care centers
14 owned by the authority, and designate a participating health institution,
15 participating educational institution, participating cultural institution, or
16 participating child care provider as its agent to determine the location and character
17 of a project undertaken by the participating health institution, participating
18 educational institution, participating cultural institution, or participating child care
19 provider under this chapter and as the agent of the authority, to construct,
20 reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease
21 as lessee or lessor and regulate the same, and as the agent of the authority, to enter
22 into contracts for any such purpose, including contracts for the management and
23 operation of such project or other health facilities, educational facilities, cultural
24 facilities, or child care centers owned by the authority.

25 **SECTION 13.** 231.03 (6) (h) of the statutes is created to read:

1 231.03 (6) (h) Finance any project undertaken for a cultural facility by a
2 participating cultural institution.

~~***NOTE: Do you want this limited to projects undertaken by participating cultural institutions or do you want to include any project undertaken for a cultural facility, regardless of by whom undertaken?~~

3 **SECTION 14.** 231.03 (6) (i) of the statutes is created to read:

4 231.03 (6) (i) Refinance outstanding debt of any participating cultural
5 institution.

6 **SECTION 15.** 231.03 (7) of the statutes is amended to read:

7 231.03 (7) Fix and revise from time to time and charge and collect rates, rents,
8 fees, and charges for the use of and for the services furnished or to be furnished by
9 a project or other health facilities, educational facilities, cultural facilities, or child
10 care centers owned by the authority or any portion thereof, contract with any person
11 in respect thereto and coordinate its policies and procedures, and cooperate with
12 recognized health facility, educational facility, cultural facility, or child care center
13 rate setting mechanisms.

14 **SECTION 16.** 231.03 (8) of the statutes is amended to read:

15 231.03 (8) Adopt rules for the use of a project or other health facility,
16 educational facility, cultural facility, or child care center or any portion of the project
17 or facility owned, financed, or refinanced in whole or in part by the authority,
18 including any property used as security for a loan secured through, from, or with the
19 assistance of the authority. The authority may designate a participating health
20 institution, participating educational institution, participating cultural institution,
21 or participating child care provider as its agent to establish rules for the use of a
22 project or other health facilities, educational facilities, cultural facilities, or child
23 care centers undertaken for that participating health institution, participating

1 educational institution, participating cultural institution, or participating child care
2 provider. The rules shall ensure that a project, health facility, educational facility,
3 cultural facility, child care center, or property may not be used primarily for sectarian
4 instruction or study or as a place for devotional activities or religious worship.

5 **SECTION 17.** 231.03 (11) of the statutes is amended to read:

6 231.03 (11) Establish or contract with others to carry out on its behalf a health
7 facility, educational facility, cultural facility, or child care center project cost
8 estimating service, and make this service available on all projects to provide expert
9 cost estimates and guidance to the participating health institution, participating
10 educational institution, participating cultural institution, or participating child care
11 provider and to the authority. To implement this service and, through it, to
12 contribute to cost containment, the authority may require such reasonable reports
13 and documents from health facility, educational facility, cultural facility, or child care
14 center projects as are required for this service and for the development of cost reports
15 and guidelines. The authority shall appoint a technical committee on health facility,
16 educational facility, cultural facility, or child care center project costs and cost
17 containment.

18 **SECTION 18.** 231.03 (13) of the statutes is amended to read:

19 231.03 (13) Make loans to any participating health institution, participating
20 educational institution, participating cultural institution, or, before May 1, 2000,
21 participating child care provider for the cost of a project in accordance with an
22 agreement between the authority and the participating health institution,
23 participating educational institution, participating cultural institution, or
24 participating child care provider. The authority may secure the loan by a mortgage
25 or other security arrangement on the health facility, educational facility, cultural

1 facility, or child care center granted by the participating health institution,
2 participating educational institution, participating cultural institution, or
3 participating child care provider to the authority. The loan may not exceed the total
4 cost of the project as determined by the participating health institution,
5 participating educational institution, participating cultural institution, or
6 participating child care provider and approved by the authority.

7 **SECTION 19.** 231.03 (14) of the statutes is amended to read:

8 231.03 (14) Make loans to a health facility, educational facility, cultural facility,
9 or, before May 1, 2000, child care center for which bonds may be issued under sub.
10 (6) (b), (d), or (f) to refinance the health facility's, educational facility's, cultural
11 facility's, or child care center's outstanding debt. The authority may secure the loan
12 or bond by a mortgage or other security arrangement on the health facility,
13 educational facility, cultural facility, or child care center granted by the participating
14 health institution, participating educational institution, participating cultural
15 institution, or participating child care provider to the authority.

16 **SECTION 20.** 231.03 (15) of the statutes is amended to read:

17 231.03 (15) Mortgage all or any portion of a project and other health facilities,
18 educational facilities, cultural facilities, or child care centers and the site thereof,
19 whether owned or thereafter acquired, for the benefit of the holders of bonds issued
20 to finance the project, health facilities, educational facilities, cultural facilities, or
21 child care centers or any portion thereof or issued to refund or refinance outstanding
22 indebtedness of participating health institutions, educational institutions,
23 participating cultural institutions, or child care providers as permitted by this
24 chapter.

25 **SECTION 21.** 231.03 (16) of the statutes is amended to read:

1 231.03 (16) Lease to a participating health institution, participating
2 educational institution, participating cultural institution, or participating child care
3 provider the project being financed or other health facilities, educational facilities,
4 cultural facilities, or child care centers conveyed to the authority in connection with
5 such financing, upon such terms and conditions as the authority deems proper, and
6 charge and collect rents therefor, and terminate any such lease upon the failure of
7 the lessee to comply with any of the obligations thereof; and include in any such lease,
8 if desired, provisions that the lessee thereof shall have options to renew the term of
9 the lease for such periods and at such rent as the authority determines or to purchase
10 all or any part of the health facilities, educational facilities, cultural facilities, or
11 child care centers or that, upon payment of all of the indebtedness incurred by the
12 authority for the financing of such project or health facilities, educational facilities,
13 cultural facilities, or child care centers or for refunding outstanding indebtedness of
14 a participating health institution, participating educational institution,
15 participating cultural institution, or participating child care provider, the authority
16 may convey all or any part of the project or such other health facilities, educational
17 facilities, cultural facilities, or child care centers to the lessees thereof with or
18 without consideration.

19 **SECTION 22.** 231.03 (17) of the statutes is amended to read:

20 231.03 (17) Charge to and apportion among participating health institutions,
21 participating educational institutions, participating cultural institutions, and
22 participating child care providers its administrative costs and expenses incurred in
23 the exercise of the powers and duties conferred by this chapter.

24 **SECTION 23.** 231.03 (18) of the statutes is amended to read:

1 231.03 (18) Make studies of needed health facilities, educational facilities,
2 cultural facilities, and child care centers that could not sustain a loan were it made
3 under this chapter and recommend remedial action to the legislature; and do the
4 same with regard to any laws or rules that prevent health facilities, educational
5 facilities, cultural facilities, and child care centers from benefiting from this chapter.

6 **SECTION 24.** 231.03 (19) of the statutes is amended to read:

7 231.03 (19) Obtain, or aid in obtaining, from any department or agency of the
8 United States or of this state or any private company, any insurance or guaranty
9 concerning the payment or repayment of, interest or principal, or both, or any part
10 thereof, on any loan, lease, or obligation or any instrument evidencing or securing
11 the same, made or entered into under the provisions of this chapter; and
12 notwithstanding any other provisions of this chapter, to enter into any agreement,
13 contract, or any other instrument with respect to that insurance or guaranty, to
14 accept payment in the manner and form provided therein in the event of default by
15 a participating health institution, participating educational institution,
16 participating cultural institution, or participating child care provider, and to assign
17 the insurance or guaranty as security for the authority's bonds.

18 **SECTION 25.** 231.04 of the statutes is amended to read:

19 **231.04 Expenses.** All expenses of the authority incurred in carrying out this
20 chapter shall be payable solely from funds provided under the authority of this
21 chapter, and no liability may be incurred by the authority beyond the extent to which
22 moneys have been provided under this chapter except that, for the purposes of
23 meeting the necessary expenses of initial organization and operation of the authority
24 for the period commencing on June 19, 1974 and continuing until such date as the
25 authority derives moneys from funds provided to it under the authority of this

1 chapter, the authority may borrow such moneys as it requires to supplement the
2 funds provided under s. 20.440. Such moneys borrowed by the authority shall
3 subsequently be charged to and apportioned among participating health
4 institutions, participating educational institutions, participating cultural
5 institutions, and participating child care providers in an equitable manner, and
6 repaid with appropriate interest over a reasonable period of time.

7 **SECTION 26.** 231.05 (1) of the statutes is amended to read:

8 231.05 (1) By means of this chapter, it is the intent of the legislature to provide
9 assistance and alternative methods of financing to nonprofit health institutions to
10 aid them in providing needed health services consistent with the state's health plan,
11 to nonprofit educational institutions to aid them in providing needed educational
12 services, to nonprofit cultural institutions to aid them in providing needed cultural
13 facilities, and to nonprofit child care providers to aid them in providing needed child
14 care services.

15 **SECTION 27.** 231.06 of the statutes is amended to read:

16 **231.06 Property acquisition.** The authority may acquire, directly or by and
17 through a participating health institution, participating educational institution,
18 participating cultural institution, or participating child care provider as its agent,
19 by purchase or by gift or devise, such lands, structures, property, rights,
20 rights-of-way, franchises, easements, and other interests in lands, including lands
21 lying under water and riparian rights, which are located within this state as it deems
22 necessary or convenient for the construction or operation of a project, upon such
23 terms and at such prices as it considers reasonable and can be agreed upon between
24 it and the owner thereof, and take title thereto in the name of the authority or in the

1 name of a health facility, educational facility, cultural facility, or child care center as
2 its agent.

3 **SECTION 28.** 231.07 (1) (b) of the statutes is amended to read:

4 231.07 (1) (b) Convey to the participating health institution, participating
5 educational institution, participating cultural institution, or participating child care
6 provider the authority's interest in the project and in any other health facility,
7 educational facility, cultural facility, or child care center leased, mortgaged, or
8 subject to a deed of trust or any other form of security arrangement to secure the
9 bond.

10 **SECTION 29.** 231.07 (2) (a) of the statutes is amended to read:

11 231.07 (2) (a) The principal of and interest on any bond issued by the authority
12 to finance a project or to refinance or refund outstanding indebtedness of one or more
13 participating health institutions, participating educational institutions,
14 participating cultural institutions, or participating child care providers, including
15 any refunding bonds issued to refund and refinance the bond, have been fully paid
16 and the bonds retired or if the adequate provision has been made to pay fully and
17 retire the bond; and

18 **SECTION 30.** 231.08 (5) of the statutes is amended to read:

19 231.08 (5) In addition to the other authorizations under this section, bonds of
20 the authority may be secured by a pooling of leases whereby the authority may assign
21 its rights, as lessor, and pledge rents under 2 or more leases of health facilities,
22 educational facilities, cultural facilities, or child care centers with 2 or more health
23 institutions, educational institutions, cultural institutions, or child care providers,
24 as lessees respectively, upon such terms as may be provided for in bond resolutions
25 of the authority.

1 **SECTION 31.** 231.10 (1) of the statutes is amended to read:

2 231.10 (1) The state is not liable on notes or bonds of the authority and the notes
3 and bonds are not a debt of the state. All notes and bonds of the authority shall
4 contain on the face thereof a statement to this effect. The issuance of bonds under
5 this chapter shall not, directly or indirectly or contingently, obligate the state or any
6 political subdivision thereof to levy any form of taxation therefor or to make any
7 appropriation for their payment. Nothing in this section prevents the authority from
8 pledging its full faith and credit or the full faith and credit of a health institution,
9 educational institution, cultural institution, or child care provider to the payment of
10 bonds authorized under this chapter.

11 **SECTION 32.** 231.12 of the statutes is amended to read:

12 **231.12 Studies and recommendations.** It is the intent and purpose of this
13 chapter that the exercise by the authority of the powers granted to it shall be in all
14 respects for the benefit of the people of this state to assist them to provide needed
15 health facilities, educational facilities, cultural facilities, and child care centers of
16 the number, size, type, distribution, and operation that will assure admission and
17 health care, education, cultural opportunities, or child care of high quality to all who
18 need it. The authority shall identify and study all projects which are determined by
19 health planning agencies to be needed, but which could not sustain a loan were such
20 to be made to it under this chapter. The authority shall formulate and recommend
21 to the legislature such amendments to this and other laws, and such other specific
22 measures as grants, loan guarantees, interest subsidies, or other actions the state
23 may provide which would render the construction and operation of needed health
24 facilities, educational facilities, cultural facilities, and child care centers feasible and
25 in the public interest. The authority also shall identify and study any laws or rules

1 which it finds handicaps or bars a needed health facility, educational facility, cultural
2 facility, or child care center from participating in the benefits of this chapter, and
3 recommend to the legislature such actions as will remedy such situation.

4 **SECTION 33.** 231.13 (1) (intro.) of the statutes is amended to read:

5 231.13 (1) (intro.) The authority shall collect rents for the use of, or other
6 revenues relating to the financing of, each project. The authority shall contract with
7 a participating health institution, participating educational institution,
8 participating cultural institution, or participating child care provider for each
9 issuance of bonds. The contract shall provide that the rents or other revenues
10 payable by the health facility, educational facility, cultural facility, or child care
11 center shall be sufficient at all times to:

12 **SECTION 34.** 231.13 (2) of the statutes is amended to read:

13 231.13 (2) The authority shall pledge the revenues derived and to be derived
14 from a project and other related health facilities, educational facilities, cultural
15 facilities, or child care centers for the purposes specified in sub. (1), and additional
16 bonds may be issued which may rank on a parity with other bonds relating to the
17 project to the extent and on the terms and conditions provided in the bond resolution.
18 Such pledge shall be valid and binding from the time when the pledge is made, the
19 revenues so pledged by the authority shall immediately be subject to the lien of such
20 pledge without any physical delivery thereof or further act and the lien of any such
21 pledge shall be valid and binding as against all parties having claims of any kind in
22 tort, contract, or otherwise against the authority, irrespective of whether such
23 parties have notice thereof. Neither the bond resolution nor any financing
24 statement, continuation statement, or other instrument by which a pledge is created
25 or by which the authority's interest in revenues is assigned need be filed or recorded

1 in any public records in order to perfect the lien thereof as against 3rd parties, except
2 that a copy thereof shall be filed in the records of the authority and with the
3 department of financial institutions.

4 **SECTION 35.** 231.16 (1) of the statutes, as affected by 2001 Wisconsin Act 16,
5 is amended to read:

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

20 **SECTION 36.** 231.20 of the statutes is amended to read:

21 **231.20 Waiver of construction and bidding requirements.** In exercising
22 its powers under s. 101.12, the department of commerce or any city, village, town, or
23 county may, within its discretion for proper cause shown, waive any particular
24 requirements relating to public buildings, structures, grounds, works, and
25 improvements imposed by law upon projects under this chapter; the requirements

1 of s. 101.13 may not be waived, however. If, however, the prospective lessee so
2 requests in writing, the authority shall, through the participating health institution,
3 participating educational institution, participating cultural institution, or
4 participating child care provider as its agent, call for construction bids in such
5 manner as is determined by the authority with the approval of the lessee.

6 **SECTION 37.** 231.23 of the statutes is amended to read:

7 **231.23 Nonprofit institutions.** It is intended that all nonprofit health and
8 institutions, educational institutions, cultural institutions, and child care providers
9 in this state be enabled to benefit from and participate in this chapter. To this end,
10 all nonprofit health and institutions, educational institutions, cultural institutions,
11 and child care providers operating, or authorized to be operated, under any law of
12 this state may undertake projects and utilize the capital financing sources and
13 methods of repayment provided by this chapter, the provisions of any other laws to
14 the contrary notwithstanding.

15 (END)

D - note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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no *ft* or will be used in whole or in part for the performing or visual arts ~~or~~ display
of art, animals, plants, or other items of cultural interest, or as a library, museum,
broadcasting facility, or other facility related to other cultural arts activities
(END OF INSERT A)

INSERT 3-24 ✓

1 *not* in whole or in part for the performing or visual arts, including music
2 performance; for the display of art, animals, plants, aquatic life, or other items of
3 cultural interest; or as a library, museum, broadcasting facility, or other facility
4 related to other cultural arts activities; and any related property

(END OF INSERT 3-24)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4465/1dn
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proposed

This redraft amends the portion of the definition of "cultural facility" set forth in s. 231.01 (4c) (b). I left out the reference in the ~~submitted~~ language to the display of music, because music is not displayed; instead, I specifically included music performance as a performing art. If the intention was that written music would be displayed, that is covered under "museum" or "other items of cultural interest."

I also left out the phrase "including the items for display or exhibition." Those items are covered under s. 231.01 (7) (b), which defines "project" to include "equipment and furnishings and other similar items for the operation of a particular facility or structure." Since in this draft WHEFA is given the authority to issue bonds to finance any *project* undertaken for a cultural facility, that authority extends to the items for display or exhibition in a cultural facility.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4465/1dn
PJK:kmg:jf

January 24, 2002

This redraft amends the portion of the definition of "cultural facility" set forth in s. 231.01 (4c) (b). I left out the reference in the proposed language to the display of music, because music is not displayed; instead, I specifically included music performance as a performing art. If the intention was that written music would be displayed, that is covered under "museum" or "other items of cultural interest."

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Wm's run

2001 BILL

*J. note
today, please
confer with
p. 2)*

Sen. Cat.

1 **AN ACT to amend** 231.01 (4) (a), 231.01 (4) (b) 1., 231.01 (4) (b) 2., 231.01 (4) (c),
2 231.01 (7) (a) 1., 231.01 (7) (a) 2., 231.01 (7) (a) 4., 231.01 (7) (c), 231.02 (6) (b),
3 231.03 (5), 231.03 (7), 231.03 (8), 231.03 (11), 231.03 (13), 231.03 (14), 231.03
4 (15), 231.03 (16), 231.03 (17), 231.03 (18), 231.03 (19), 231.04, 231.05 (1),
5 231.06, 231.07 (1) (b), 231.07 (2) (a), 231.08 (5), 231.10 (1), 231.12, 231.13 (1)
6 (intro.), 231.13 (2), 231.16 (1), 231.20 and 231.23; and **to create** 231.01 (4c),
7 231.01 (5t), 231.03 (6) (h) and 231.03 (6) (i) of the statutes; **relating to:**
8 authorizing the Wisconsin Health and Educational Facilities Authority to issue
9 bonds to finance projects related to cultural facilities.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational institutions, to refinance outstanding debt of health or educational institutions, and to finance a purchase of the state's right to receive any of the payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. Projects of health or educational institutions that may be financed include, among others, the acquisition of a hospital, the construction or operation of an ambulatory

BILL

surgery center or home health agency, and the construction, remodeling, furnishing, or equipping of a health or educational facility or related structure.

This bill authorizes WHEFA to issue bonds to finance any project undertaken by a cultural institution for a cultural facility, or to refinance outstanding debt of a cultural institution. A cultural institution is defined in the bill as a corporation, agency, or association that is authorized by state law to provide or operate a cultural facility. A cultural facility is defined in the bill as a building, institution, place, or agency of a nonprofit entity that is or will be used in whole or in part for the performing or visual arts; for the display of art, animals, plants, or other items of cultural interest; or as a library, museum, broadcasting facility, or other facility related to other cultural arts activities. Project activities for which WHEFA may issue bonds include construction, acquisition, remodeling, furnishing, and equipping of cultural facilities, related structures, and structures or items that are useful for the operation of cultural facilities.

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

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

1 **SECTION 1.** 231.01 (4) (a) of the statutes is amended to read:

2 231.01 (4) (a) "Cost" means the sum of all costs incurred by a participating
3 health institution, participating educational institution, participating cultural
4 institution, or participating child care provider, as approved by the authority, as are
5 reasonable and necessary to accomplish the project, exclusive of any private or
6 federal, state, or local financial assistance received by the participating health
7 institution, participating educational institution, participating cultural institution,
8 or participating child care provider for the payment of the project cost.

9 **SECTION 2.** 231.01 (4) (b) 1. of the statutes is amended to read:

10 231.01 (4) (b) 1. The cost incurred by or on behalf of the participating health
11 institution, participating educational institution, participating cultural institution,
12 or participating child care provider of all necessary developmental, planning, and
13 feasibility studies, surveys, plans, and specifications, architectural, engineering,

BILL

1 legal, or other special services, the cost of acquisition of land and any buildings and
2 improvements on the land, site preparation, and development including demolition
3 or removal of existing structures, construction, reconstruction, and equipment,
4 including machinery, fixed equipment, and personal property.

5 **SECTION 3.** 231.01 (4) (b) 2. of the statutes is amended to read:

6 231.01 (4) (b) 2. The reasonable cost of financing incurred by a participating
7 health institution, participating educational institution, participating cultural
8 institution, or participating child care provider in the course of the development of
9 the project to the occupancy date.

10 **SECTION 4.** 231.01 (4) (c) of the statutes is amended to read:

11 231.01 (4) (c) All rents and other net revenues from the operation of the real
12 property, improvements, or personal property on the project site by a participating
13 health institution, participating educational institution, participating cultural
14 institution, or participating child care provider on and after the date on which the
15 contract between a participating health institution, participating educational
16 institution, participating cultural institution, or participating child care provider
17 and the authority was entered into, but prior to the occupancy date, shall reduce the
18 sum of all costs in this subsection.

19 **SECTION 5.** 231.01 (4c) of the statutes is created to read:

20 231.01 (4c) "Cultural facility" means an institution, place, building, or agency
21 that satisfies all of the following:

22 (a) Is owned by an entity that is described in section 501 (c) (3) of the Internal
23 Revenue Code and that is exempt from federal income tax under section 501 (a) of
24 the Internal Revenue Code.

BILL

1 (b) Is or will be used in whole or in part for the performing or visual arts,
2 including music performance; for the display of art, animals, plants, aquatic life, or
3 other items of cultural interest; or as a library, museum, broadcasting facility, or
4 other facility related to other cultural arts activities; and any related property.

5 **SECTION 6.** 231.01 (5t) of the statutes is created to read:

6 231.01 (5t) "Participating cultural institution" means a corporation, agency, or
7 association that is authorized by state law to provide or operate a cultural facility and
8 that undertakes the financing and construction or acquisition of a project or
9 undertakes the refunding or refinancing of obligations or of a mortgage or of
10 advances as provided in this chapter.

11 **SECTION 7.** 231.01 (7) (a) 1. of the statutes is amended to read:

12 231.01 (7) (a) 1. A specific health facility, educational facility, cultural facility,
13 or child care center work or improvement to be refinanced, acquired, constructed,
14 enlarged, remodeled, renovated, improved, furnished, or equipped by the authority
15 with funds provided in whole or in part under this chapter.

16 **SECTION 8.** 231.01 (7) (a) 2. of the statutes is amended to read:

17 231.01 (7) (a) 2. One or more structures suitable for use as a child care center,
18 cultural facility, health facility, laboratory, laundry, nurses' or interns' residence or
19 other multi-unit housing facility for staff, employees, patients or relatives of
20 patients admitted for treatment or care in a health facility, physician's facility,
21 administration building, research facility, maintenance, storage, or utility facility.

22 **SECTION 9.** 231.01 (7) (a) 4. of the statutes is amended to read:

23 231.01 (7) (a) 4. Any structure useful for the operation of a health facility,
24 educational facility, cultural facility, or child care center, including facilities or

BILL

1 supporting service structures essential or convenient for the orderly conduct of the
2 health facility, educational facility, cultural facility, or child care center.

3 **SECTION 10.** 231.01 (7) (c) of the statutes is amended to read:

4 231.01 (7) (c) "Project" may include any combination of projects undertaken
5 jointly by any participating health institution, participating educational institution,
6 participating cultural institution, or participating child care provider with one or
7 more other participating health institutions, participating educational institutions,
8 participating cultural institutions, or participating child care providers.

9 **SECTION 11.** 231.02 (6) (b) of the statutes is amended to read:

10 231.02 (6) (b) Notwithstanding any other provision of law, it is not a conflict
11 of interest or violation of this section or of any other law for a trustee, director, officer,
12 or employee of a participating health institution, participating educational
13 institution, participating cultural institution, or participating child care provider or
14 for a person having the required favorable reputation for skill, knowledge, and
15 experience in state and municipal finance or for a person having the required
16 favorable reputation for skill, knowledge, and experience in the field of health
17 facility, educational facility, cultural facility, or child care center architecture to serve
18 as a member of the authority; if in each case to which par. (a) is applicable, the
19 trustee, director, officer, or employee of the participating health institution,
20 participating educational institution, participating cultural institution, or
21 participating child care provider abstains from discussion, deliberation, action, and
22 vote by the authority in specific respect to any undertaking pursuant to this chapter
23 in which his or her participating health institution, participating educational
24 institution, participating cultural institution, or participating child care provider
25 has an interest, or the person having the required favorable reputation for skill,

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1 knowledge, and experience in state and municipal finance abstains from discussion,
2 deliberation, action, and vote by the authority in specific respect to any sale,
3 purchase, or ownership of bonds of the authority in which any business of which such
4 person is a participant, owner, officer, or employee has a past, current, or future
5 interest, or such person having the required favorable reputation for skill,
6 knowledge, and experience in the field of health facility, educational facility, cultural
7 facility, or child care center architecture abstains from discussion, deliberation,
8 action, and vote by the authority in specific respect to construction or acquisition of
9 any project of the authority in which any business of which such person is a
10 participant, owner, officer, or employee has a past, current, or future interest.

11 **SECTION 12.** 231.03 (5) of the statutes is amended to read:

12 231.03 (5) Determine the location and character of any project to be financed
13 under this chapter, and construct, reconstruct, remodel, maintain, enlarge, alter, add
14 to, repair, lease as lessee or lessor and regulate the same, enter into contracts for any
15 such purpose, enter into contracts for the management and operation of a project or
16 other health facilities, educational facilities, cultural facilities, or child care centers
17 owned by the authority, and designate a participating health institution,
18 participating educational institution, participating cultural institution, or
19 participating child care provider as its agent to determine the location and character
20 of a project undertaken by the participating health institution, participating
21 educational institution, participating cultural institution, or participating child care
22 provider under this chapter and as the agent of the authority, to construct,
23 reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease
24 as lessee or lessor and regulate the same, and as the agent of the authority, to enter
25 into contracts for any such purpose, including contracts for the management and

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1 operation of such project or other health facilities, educational facilities, cultural
2 facilities, or child care centers owned by the authority.

3 **SECTION 13.** 231.03 (6) (h) of the statutes is created to read:

4 231.03 (6) (h) Finance any project undertaken for a cultural facility by a
5 participating cultural institution.

6 **SECTION 14.** 231.03 (6) (i) of the statutes is created to read:

7 231.03 (6) (i) Refinance outstanding debt of any participating cultural
8 institution.

9 **SECTION 15.** 231.03 (7) of the statutes is amended to read:

10 231.03 (7) Fix and revise from time to time and charge and collect rates, rents,
11 fees, and charges for the use of and for the services furnished or to be furnished by
12 a project or other health facilities, educational facilities, cultural facilities, or child
13 care centers owned by the authority or any portion thereof, contract with any person
14 in respect thereto and coordinate its policies and procedures, and cooperate with
15 recognized health facility, educational facility, cultural facility, or child care center
16 rate setting mechanisms.

17 **SECTION 16.** 231.03 (8) of the statutes is amended to read:

18 231.03 (8) Adopt rules for the use of a project or other health facility,
19 educational facility, cultural facility, or child care center or any portion of the project
20 or facility owned, financed, or refinanced in whole or in part by the authority,
21 including any property used as security for a loan secured through, from, or with the
22 assistance of the authority. The authority may designate a participating health
23 institution, participating educational institution, participating cultural institution,
24 or participating child care provider as its agent to establish rules for the use of a
25 project or other health facilities, educational facilities, cultural facilities, or child

BILL**SECTION 16**

1 care centers undertaken for that participating health institution, participating
2 educational institution, participating cultural institution, or participating child care
3 provider. The rules shall ensure that a project, health facility, educational facility,
4 cultural facility, child care center, or property may not be used primarily for sectarian
5 instruction or study or as a place for devotional activities or religious worship.

6 **SECTION 17.** 231.03 (11) of the statutes is amended to read:

7 231.03 (11) Establish or contract with others to carry out on its behalf a health
8 facility, educational facility, cultural facility, or child care center project cost
9 estimating service, and make this service available on all projects to provide expert
10 cost estimates and guidance to the participating health institution, participating
11 educational institution, participating cultural institution, or participating child care
12 provider and to the authority. To implement this service and, through it, to
13 contribute to cost containment, the authority may require such reasonable reports
14 and documents from health facility, educational facility, cultural facility, or child care
15 center projects as are required for this service and for the development of cost reports
16 and guidelines. The authority shall appoint a technical committee on health facility,
17 educational facility, cultural facility, or child care center project costs and cost
18 containment.

19 **SECTION 18.** 231.03 (13) of the statutes is amended to read:

20 231.03 (13) Make loans to any participating health institution, participating
21 educational institution, participating cultural institution, or, before May 1, 2000,
22 participating child care provider for the cost of a project in accordance with an
23 agreement between the authority and the participating health institution,
24 participating educational institution, participating cultural institution, or
25 participating child care provider. The authority may secure the loan by a mortgage

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1 or other security arrangement on the health facility, educational facility, cultural
2 facility, or child care center granted by the participating health institution,
3 participating educational institution, participating cultural institution, or
4 participating child care provider to the authority. The loan may not exceed the total
5 cost of the project as determined by the participating health institution,
6 participating educational institution, participating cultural institution, or
7 participating child care provider and approved by the authority.

8 **SECTION 19.** 231.03 (14) of the statutes is amended to read:

9 231.03 (14) Make loans to a health facility, educational facility, cultural facility,
10 or, before May 1, 2000, child care center for which bonds may be issued under sub.
11 (6) (b), (d), or (f) to refinance the health facility's, educational facility's, cultural
12 facility's, or child care center's outstanding debt. The authority may secure the loan
13 or bond by a mortgage or other security arrangement on the health facility,
14 educational facility, cultural facility, or child care center granted by the participating
15 health institution, participating educational institution, participating cultural
16 institution, or participating child care provider to the authority.

17 **SECTION 20.** 231.03 (15) of the statutes is amended to read:

18 231.03 (15) Mortgage all or any portion of a project and other health facilities,
19 educational facilities, cultural facilities, or child care centers and the site thereof,
20 whether owned or thereafter acquired, for the benefit of the holders of bonds issued
21 to finance the project, health facilities, educational facilities, cultural facilities, or
22 child care centers or any portion thereof or issued to refund or refinance outstanding
23 indebtedness of participating health institutions, educational institutions,
24 participating cultural institutions, or child care providers as permitted by this
25 chapter.

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1 **SECTION 21.** 231.03 (16) of the statutes is amended to read:

2 231.03 (16) Lease to a participating health institution, participating
3 educational institution, participating cultural institution, or participating child care
4 provider the project being financed or other health facilities, educational facilities,
5 cultural facilities, or child care centers conveyed to the authority in connection with
6 such financing, upon such terms and conditions as the authority deems proper, and
7 charge and collect rents therefor, and terminate any such lease upon the failure of
8 the lessee to comply with any of the obligations thereof; and include in any such lease,
9 if desired, provisions that the lessee thereof shall have options to renew the term of
10 the lease for such periods and at such rent as the authority determines or to purchase
11 all or any part of the health facilities, educational facilities, cultural facilities, or
12 child care centers or that, upon payment of all of the indebtedness incurred by the
13 authority for the financing of such project or health facilities, educational facilities,
14 cultural facilities, or child care centers or for refunding outstanding indebtedness of
15 a participating health institution, participating educational institution,
16 participating cultural institution, or participating child care provider, the authority
17 may convey all or any part of the project or such other health facilities, educational
18 facilities, cultural facilities, or child care centers to the lessees thereof with or
19 without consideration.

20 **SECTION 22.** 231.03 (17) of the statutes is amended to read:

21 231.03 (17) Charge to and apportion among participating health institutions,
22 participating educational institutions, participating cultural institutions, and
23 participating child care providers its administrative costs and expenses incurred in
24 the exercise of the powers and duties conferred by this chapter.

25 **SECTION 23.** 231.03 (18) of the statutes is amended to read:

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1 231.03 (18) Make studies of needed health facilities, educational facilities,
2 cultural facilities, and child care centers that could not sustain a loan were it made
3 under this chapter and recommend remedial action to the legislature; and do the
4 same with regard to any laws or rules that prevent health facilities, educational
5 facilities, cultural facilities, and child care centers from benefiting from this chapter.

6 **SECTION 24.** 231.03 (19) of the statutes is amended to read:

7 231.03 (19) Obtain, or aid in obtaining, from any department or agency of the
8 United States or of this state or any private company, any insurance or guaranty
9 concerning the payment or repayment of, interest or principal, or both, or any part
10 thereof, on any loan, lease, or obligation or any instrument evidencing or securing
11 the same, made or entered into under the provisions of this chapter; and
12 notwithstanding any other provisions of this chapter, to enter into any agreement,
13 contract, or ~~any~~ other instrument with respect to that insurance or guaranty, to
14 accept payment in the manner and form provided therein in the event of default by
15 a participating health institution, participating educational institution,
16 participating cultural institution, or participating child care provider, and to assign
17 the insurance or guaranty as security for the authority's bonds.

18 **SECTION 25.** 231.04 of the statutes is amended to read:

19 **231.04 Expenses.** All expenses of the authority incurred in carrying out this
20 chapter shall be payable solely from funds provided under the authority of this
21 chapter, and no liability may be incurred by the authority beyond the extent to which
22 moneys have been provided under this chapter except that, for the purposes of
23 meeting the necessary expenses of initial organization and operation of the authority
24 for the period commencing on June 19, 1974 and continuing until such date as the
25 authority derives moneys from funds provided to it under the authority of this

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1 chapter, the authority may borrow such moneys as it requires to supplement the
2 funds provided under s. 20.440. Such moneys borrowed by the authority shall
3 subsequently be charged to and apportioned among participating health
4 institutions, participating educational institutions, participating cultural
5 institutions, and participating child care providers in an equitable manner, and
6 repaid with appropriate interest over a reasonable period of time.

7 **SECTION 26.** 231.05 (1) of the statutes is amended to read:

8 231.05 (1) By means of this chapter, it is the intent of the legislature to provide
9 assistance and alternative methods of financing to nonprofit health institutions to
10 aid them in providing needed health services consistent with the state's health plan,
11 to nonprofit educational institutions to aid them in providing needed educational
12 services, to nonprofit cultural institutions to aid them in providing needed cultural
13 facilities, and to nonprofit child care providers to aid them in providing needed child
14 care services.

15 **SECTION 27.** 231.06 of the statutes is amended to read:

16 **231.06 Property acquisition.** The authority may acquire, directly or by and
17 through a participating health institution, participating educational institution,
18 participating cultural institution, or participating child care provider as its agent,
19 by purchase or by gift or devise, such lands, structures, property, rights,
20 rights-of-way, franchises, easements, and other interests in lands, including lands
21 lying under water and riparian rights, which are located within this state as it deems
22 necessary or convenient for the construction or operation of a project, upon such
23 terms and at such prices as it considers reasonable and can be agreed upon between
24 it and the owner thereof, and take title thereto in the name of the authority or in the

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1 name of a health facility, educational facility, cultural facility, or child care center as
2 its agent.

3 **SECTION 28.** 231.07 (1) (b) of the statutes is amended to read:

4 231.07 (1) (b) Convey to the participating health institution, participating
5 educational institution, participating cultural institution, or participating child care
6 provider the authority's interest in the project and in any other health facility,
7 educational facility, cultural facility, or child care center leased, mortgaged, or
8 subject to a deed of trust or any other form of security arrangement to secure the
9 bond.

10 **SECTION 29.** 231.07 (2) (a) of the statutes is amended to read:

11 231.07 (2) (a) The principal of and interest on any bond issued by the authority
12 to finance a project or to refinance or refund outstanding indebtedness of one or more
13 participating health institutions, participating educational institutions,
14 participating cultural institutions, or participating child care providers, including
15 any refunding bonds issued to refund and refinance the bond, have been fully paid
16 and the bonds retired or if the adequate provision has been made to pay fully and
17 retire the bond; and

18 **SECTION 30.** 231.08 (5) of the statutes is amended to read:

19 231.08 (5) In addition to the other authorizations under this section, bonds of
20 the authority may be secured by a pooling of leases whereby the authority may assign
21 its rights, as lessor, and pledge rents under 2 or more leases of health facilities,
22 educational facilities, cultural facilities, or child care centers with 2 or more health
23 institutions, educational institutions, cultural institutions, or child care providers,
24 as lessees respectively, upon such terms as may be provided for in bond resolutions
25 of the authority.

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1 **SECTION 31.** 231.10 (1) of the statutes is amended to read:

2 231.10 (1) The state is not liable on notes or bonds of the authority and the notes
3 and bonds are not a debt of the state. All notes and bonds of the authority shall
4 contain on the face thereof a statement to this effect. The issuance of bonds under
5 this chapter shall not, directly or indirectly or contingently, obligate the state or any
6 political subdivision thereof to levy any form of taxation therefor or to make any
7 appropriation for their payment. Nothing in this section prevents the authority from
8 pledging its full faith and credit or the full faith and credit of a health institution,
9 educational institution, cultural institution, or child care provider to the payment of
10 bonds authorized under this chapter.

11 **SECTION 32.** 231.12 of the statutes is amended to read:

12 **231.12 Studies and recommendations.** It is the intent and purpose of this
13 chapter that the exercise by the authority of the powers granted to it shall be in all
14 respects for the benefit of the people of this state to assist them to provide needed
15 health facilities, educational facilities, cultural facilities, and child care centers of
16 the number, size, type, distribution, and operation that will assure admission and
17 health care, education, cultural opportunities, or child care of high quality to all who
18 need it. The authority shall identify and study all projects which are determined by
19 health planning agencies to be needed, but which could not sustain a loan were such
20 to be made to it under this chapter. The authority shall formulate and recommend
21 to the legislature such amendments to this and other laws, and such other specific
22 measures as grants, loan guarantees, interest subsidies, or other actions the state
23 may provide which would render the construction and operation of needed health
24 facilities, educational facilities, cultural facilities, and child care centers feasible and
25 in the public interest. The authority also shall identify and study any laws or rules

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1 which it finds handicaps or bars a needed health facility, educational facility, cultural
2 facility, or child care center from participating in the benefits of this chapter, and
3 recommend to the legislature such actions as will remedy such situation.

4 **SECTION 33.** 231.13 (1) (intro.) of the statutes is amended to read:

5 231.13 (1) (intro.) The authority shall collect rents for the use of, or other
6 revenues relating to the financing of, each project. The authority shall contract with
7 a participating health institution, participating educational institution,
8 participating cultural institution, or participating child care provider for each
9 issuance of bonds. The contract shall provide that the rents or other revenues
10 payable by the health facility, educational facility, cultural facility, or child care
11 center shall be sufficient at all times to:

12 **SECTION 34.** 231.13 (2) of the statutes is amended to read:

13 231.13 (2) The authority shall pledge the revenues derived and to be derived
14 from a project and other related health facilities, educational facilities, cultural
15 facilities, or child care centers for the purposes specified in sub. (1), and additional
16 bonds may be issued which may rank on a parity with other bonds relating to the
17 project to the extent and on the terms and conditions provided in the bond resolution.
18 Such pledge shall be valid and binding from the time when the pledge is made, the
19 revenues so pledged by the authority shall immediately be subject to the lien of such
20 pledge without any physical delivery thereof or further act and the lien of any such
21 pledge shall be valid and binding as against all parties having claims of any kind in
22 tort, contract, or otherwise against the authority, irrespective of whether such
23 parties have notice thereof. Neither the bond resolution nor any financing
24 statement, continuation statement, or other instrument by which a pledge is created
25 or by which the authority's interest in revenues is assigned need be filed or recorded

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1 in any public records in order to perfect the lien thereof as against 3rd parties, except
2 that a copy thereof shall be filed in the records of the authority and with the
3 department of financial institutions.

4 **SECTION 35.** 231.16 (1) of the statutes, as affected by 2001 Wisconsin Act 16,
5 is amended to read:

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

20 **SECTION 36.** 231.20 of the statutes is amended to read:

21 **231.20 Waiver of construction and bidding requirements.** In exercising
22 its powers under s. 101.12, the department of commerce or any city, village, town, or
23 county may, within its discretion for proper cause shown, waive any particular
24 requirements relating to public buildings, structures, grounds, works, and
25 improvements imposed by law upon projects under this chapter; the requirements

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1 of s. 101.13 may not be waived, however. If, however, the prospective lessee so
2 requests in writing, the authority shall, through the participating health institution,
3 participating educational institution, participating cultural institution, or
4 participating child care provider as its agent, call for construction bids in such
5 manner as is determined by the authority with the approval of the lessee.

6 **SECTION 37.** 231.23 of the statutes is amended to read:

7 **231.23 Nonprofit institutions.** It is intended that all nonprofit health and
8 institutions, educational institutions, cultural institutions, and child care providers
9 in this state be enabled to benefit from and participate in this chapter. To this end,
10 all nonprofit health and institutions, educational institutions, cultural institutions,
11 and child care providers operating, or authorized to be operated, under any law of
12 this state may undertake projects and utilize the capital financing sources and
13 methods of repayment provided by this chapter, the provisions of any other laws to
14 the contrary notwithstanding.

15 (END)



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4465/2dn
PJK:kmg:jf

This redraft removes the fiscal estimate tag at the end of the analysis. According to the fiscal estimates for the last bill of this same nature (adding a new bonding purpose for WHEFA) that became an act (1993 Act 124), the fiscal impact on the state was estimated to be \$0.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4465/2dn
FJK:kmg:pg

January 25, 2002

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Please
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4465/2

for the
Assembly
(Weekend)

Thanks!
JK

AB-794

Basford, Sarah

From: Basford, Sarah
Sent: Tuesday, February 19, 2002 10:54 AM
To: Becher, Scott
Subject: LRB -4465/2 (attached)



01-4465/2

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