State of Wisconsin
1999 – 2000 LEGISLATURE

LRB–2130/P/5

Edited Copy

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:**

Analysis by the Legislative Reference Bureau

INS. A

INTRODUCTION

The descriptions that follow relate to the most significant changes in the law that are proposed in the bill. In most cases, changes in the amounts of existing spending authority and changes in the amounts of bonding authority under existing bonding programs are not discussed.

For additional information concerning this bill, see the department of administration's publication *Budget in Brief* and the executive budget books, the legislative fiscal bureau's summary document and the legislative reference bureau's drafting files, which contain separate drafts on each policy item. In most cases, the policy item drafts contain a more detailed analysis than is printed with this bill.

GUIDE TO THE BILL

As is the case for all other bills, the sections of the budget bill that affect statutes are organized in ascending numerical order of the statutes affected.

Treatments of prior session laws (styled "laws of [year], chapter ...." from 1848 to 1981, and "[year] Wisconsin Act ...." beginning with 1983) are displayed next by year of original enactment and by act number.

The remaining sections of the budget bill are organized by type of provision and, within each type, alphabetically by state agency. The first two digits of the four–digit section number indicate the type of provision:

91XX Nonstatutory provisions.
92XX Appropriation changes.
93XX Initial applicability.
94XX Effective dates.

The remaining two digits indicate the state agency to which the provision relates:

XX01 Administration.
XX02 Adolescent pregnancy prevention and pregnancy services board.
XX03 Aging and long–term care board.
XX04 Agriculture, trade and consumer protection.
XX05 Arts board.
XX06 Boundary area commission, Minnesota–Wisconsin.
XX07 Building commission.
XX08 Child abuse and neglect prevention board.
XX09 Circuit courts.
XX10 Commerce.
XX11 Corrections.
XX12 Court of appeals.
XX13 Educational communications board.
XX14 Elections board.
XX15 Employe trust funds.
XX16 Employment relations commission.
XX17 Employment relations department.
XX18 Ethics board.
XX19 Financial institutions.
XX21 Governor.
XX22 Health and Educational Facilities Authority.
XX23 Health and family services.
XX24 Historical society.
XX25 Housing and Economic Development Authority.
XX26 Insurance.
XX27 Investment board.
XX28 Joint committee on finance.
XX29 Judicial commission.
XX30 Justice.
XX31 Legislature.
XX32 Lieutenant governor.
XX33 Lower Wisconsin state riverway board.
XX34 Medical College of Wisconsin.
XX35 Military affairs.
XX36 Natural resources.
XX37 Personnel commission.

XX38 Public defender board.
XX39 Public instruction.
XX40 Public lands, board of commissioners of.
XX41 Public service commission.
XX42 Regulation and licensing.
XX43 Revenue.
XX44 Secretary of state.
XX45 State fair park board.
XX46 Supreme Court.
XX47 Technical college system.
XX48 Technology for educational achievement in Wisconsin board.
XX49 Tourism.
XX50 Transportation.
XX51 Treasurer.
XX52 University of Wisconsin Hospitals and Clinics Authority.
XX53 University of Wisconsin Hospitals and Clinics Board.
XX54 University of Wisconsin System.
XX55 Veterans affairs.
XX56 World Dairy Center Authority.
XX57 Workforce development.
XX58 Other.

For example, for general nonstatutory provisions relating to the historical society, see SECTION 9124. For any agency that is not assigned a two–digit identification number and that is attached to another agency, see the number of the latter agency. For any other agency not assigned a two–digit identification number or any provision that does not relate to the functions of a particular agency, see number "58" (**other**) within each type of provision.

In order to facilitate amendment drafting and the enrolling process, separate section numbers and headings appear for each type of provision and for each state agency, even if there are no provisions included in that section number and heading. Section numbers and headings for which there are no provisions will be deleted in enrolling and will not appear in the published act.

AGRICULTURE

Under current law, one of the eligibility requirements for the farmland preservation credit is that the land to which the credit relates must be subject either to a farmland preservation agreement between the landowner and the department of agriculture, trade and consumer protection (DATCP) or to an exclusive agricultural use zoning ordinance that is certified by the land and water conservation board (LWCB). A farmland preservation agreement requires the owner to keep the land in agricultural use for the duration of the agreement, up to 25 years, although DATCP may release land from an agreement under certain circumstances. In some of the circumstances under which DATCP may release land from a farmland

preservation agreement, or if land is rezoned from exclusive agricultural use, DATCP is required to file a lien against the land for the amount of the farmland preservation credit received by the owner during the preceding ten years.

For taxable years beginning after December 31, 2000, this bill eliminates the requirement that land be subject to a farmland preservation agreement or exclusive agricultural use zoning in order for the owner to qualify for the farmland preservation credit. *See* **TAXATION** for a description of all of the changes in the credit. The bill prohibits DATCP from entering into additional farmland preservation agreements and requires DATCP to release land from an existing farmland preservation agreement at the request of the owner. DATCP must file a lien against the land for the amount of the farmland preservation credit received by the owner during the preceding ten years unless the land qualifies for release under one of the current circumstances under which a lien is not required. Under the bill, land that is rezoned from exclusive agricultural use zoning after December 31, 2000, is not subject to a lien.

Under current law, another eligibility requirement for the farmland preservation credit is that the land be farmed in compliance with a soil and water conservation plan or with soil and water conservation standards established by the county in which the land is located and approved by LWCB. Under the bill, beginning on January 1, 2001, all claimants must comply with the soil and water conservation standards. The bill requires counties to revise the standards so that they are consistent with the tolerable erosion standard established by LWCB and with nutrient management rules promulgated by DATCP.

Under current law, an exclusive agricultural use zoning ordinance must generally provide that the minimum parcel size for establishing a residence or a farm operation is 35 acres. This bill eliminates that requirement effective January 1, 2001, and requires instead that an exclusive agricultural use ordinance must specify a minimum lot size.

Under current law, a person may not operate a nursery (a place where plants are grown for sale) in this state without a license from DATCP. The license fee is based primarily on total nursery acreage. A person other than the operator of a nursery may not sell nursery stock without a nursery dealer license from DATCP. The nursery dealer license fee is $25 for each place of business.

Under this bill, the license fee for a nursery operator (called a nursery grower) is based on annual sales of nursery stock and the nursery dealer license fee is based on annual purchases of nursery stock. The bill also requires that Christmas tree growers be licensed as nursery growers.

Current law requires county land conservation committees to prepare land and water resource management plans. The plans must be reviewed by LWCB and approved by DATCP. This bill provides for land and water resource management plans to be reviewed by DATCP, in consultation with the department of natural resources, and approved by LWCB. The bill also changes the requirements for the contents of a land and water resource management plan by, among other things,

requiring the identification of water quality goals and a system for monitoring the progress of the activities described in the plan.

Under current law, DATCP awards grants for land and water resource management projects and for the construction of animal waste management systems. Current law authorizes the issuance of up to $3,000,000 in state bonds for this program. This bill increases that bonding authority by $3,575,000.

Under current law, DATCP regulates establishments where animals are slaughtered and where meat is processed if those establishments are not federally licensed. This bill requires slaughtering and meat processing establishments that are not federally licensed to comply with the federal regulations that apply to federally licensed establishments, except as otherwise provided in rules promulgated by DATCP.

Under current law, DATCP collects fees related to fertilizer, animal feeds and pesticides from persons who manufacture and sell these products. The fees are used for the management of agricultural chemicals. The 1997–99 biennial budget act lowered the amount of these fees for two years. This bill extends the lower fee amounts for two additional years.

For the fertilizer and animal feed fees, the bill also imposes a weights and measures fee on each ton of fertilizer or animal feed sold. The fees are used by DATCP for its weights and measures inspection program. This bill reduces the fertilizer and animal feed fees so that the total fee per ton remains the same as it is under current law.

This bill authorizes DATCP to accept electronic applications and payments for licenses issued and services provided by DATCP. DATCP may charge a fee to cover its electronic processing costs.

COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

This bill authorizes the department of commerce to award grants and loans to businesses that are located in the same county as a casino that is operated by a federally recognized American Indian tribe or band or in a county adjacent to such a county. A grant for professional services, such as engineering studies, feasibility studies, marketing assistance or legal or accounting services, may not exceed $15,000. A grant or loan for fixed asset financing may not exceed $100,000. For either of these grants or loans, the department must determine that the recipient has been negatively impacted by the existence of the casino and that the recipient has a need for the grant or loan to improve its profitability. Unless the department waives the requirement for financial hardship reasons, any business receiving a grant or loan must provide matching funds for 25% of the cost of the project.

The bill also authorizes the department to award a grant or loan to a business described above for the purpose of diversifying the economy of a community in

proximity to a casino. In determining whether to award a grant or loan, the department must consider a project's potential to retain or increase jobs, potential for significant capital investment and contribution to the economy of the community in proximity to the casino and to the economy of the state. A business that receives a grant or loan must provide matching funds for at least 25% of the cost of the project. Moneys for all of these grants and loans come from Indian gaming receipts. In addition, Indian gaming receipts are used for economic development grants for Brown County in fiscal years 1999–2000 and 2000–01.

space → ~~Also~~ under current law, general purpose revenue is appropriated to the department of commerce for economic development for American Indians. This bill changes the source of the funding to Indian gaming receipts.

The Wisconsin Housing and Economic Development Authority (WHEDA) administers a number of loan guarantee programs. Under the small business development loan guarantee program, WHEDA may guarantee up to 80% or $200,000, whichever is less, of the principal of a loan made by a private lending institution to a business that employs 50 or fewer full–time employes (small business), or to the elected governing body of a federally recognized American Indian tribe or band in this state, for certain business development projects. The total outstanding guaranteed principal amount of all loans that WHEDA may guarantee under the program is $9,900,000. This bill adds a new type of eligible borrower to the program: a small business that is located in the same county as a casino that is operated by a federally recognized American Indian tribe or band or in a county that is adjacent to such a county. For such a loan, WHEDA may guarantee up to 100% or $200,000, whichever is less, of the loan principal. In addition, for such a loan WHEDA annually may pay to the financial institution that made the loan up to 3.5% of the outstanding balance of the loan as an interest subsidy. The bill increases the total outstanding guaranteed principal amount of all loans that WHEDA may guarantee under the program from $9,900,000 to $21,150,000. The bill also authorizes WHEDA to use Indian gaming receipts for guarantees and interest subsidies for loans made to businesses located in the same counties as American Indian casinos or in counties adjacent to those counties.

Currently, under the physician loan assistance and health care provider loan assistance programs, the department of commerce may repay up to a specified amount in educational loans on behalf of a physician, physician's assistant, nurse–midwife or nurse practitioner who agrees to practice at least 32 clinic hours per week for three years in one or more eligible practice areas, defined generally as areas in this state with shortages of certain types of health care providers. The loan repayments are funded from general purpose revenue. The bill changes the funding source to Indian gaming revenue.

This bill authorizes WHEDA to organize and maintain a nonstock, nonprofit corporation for the purpose of investing in biotechnology companies in this state. Biotechnology is defined as technology related to life sciences. General purpose

revenue is provided to the corporation for start–up capital and for its reasonable administrative expenses. WHEDA must provide administrative services to the corporation by assigning its own employes or by contracting with private or state agencies to provide the services.

The corporation may invest in a biotechnology company by purchasing capital participation instruments, such as capital stock, partnership or membership interests, evidences of indebtedness and royalties, in a commercial, industrial or other economic enterprise undertaken by the biotechnology company. The corporation may not purchase more than 49% of the voting stock in any such enterprise and may not invest more than $200,000 in any one biotechnology company.

The board of directors of the corporation includes the executive director of WHEDA, the secretary of commerce, the secretary of administration, the executive director of the investment board, the president of the University of Wisconsin System and the president of Forward Wisconsin, Inc., or the designee of any of them, and three other members who are initially appointed by the governor and who must include representatives of the state's biotechnology research community, biotechnology industry and venture capital industry.

This bill authorizes the department of commerce to award a grant of not more than $1,000,000 to a consortium of business, governmental and educational entities in the Racine–Kenosha area for a manufacturing technology training center. The consortium must submit a business plan to the department, and the secretary of commerce must approve the plan before the grant may be made. The department and the consortium must enter into a written agreement concerning the use of the grant proceeds, and the consortium must submit a report to the department on the use of the grant proceeds within six months after spending the proceeds.

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~~The~~ This bill ~~also~~ authorizes the department of commerce to make a loan of not more than $600,000 to a person for a project that includes a pedestrian bridge. In order to receive the loan, the person must submit a project plan and the plan must be approved by the secretary of commerce. The person must enter into a written agreement with the department related to the use of the loan proceeds, and must agree to report to the department on the use of the loan proceeds after the proceeds are spent.

This bill eliminates the manufacturing assistance grants program, under which the development finance board awards grants to fund a management assessment and plan, to provide customized training for employes of a business supplying a manufacturing business and to provide support for a manufacturing extension center technology transfer program. Grants may not total more than $750,000 in a fiscal biennium and are funded with general purpose revenue from the Wisconsin development fund and with repayments from grants and loans made from the Wisconsin development fund.

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This bill authorizes the department of commerce to award a grant to a technology–based nonprofit organization to provide support for a manufacturing

extension center. Grants awarded under the program may not exceed $1,000,000 in a fiscal year and are funded solely with repayments of grants and loans made from the Wisconsin development fund.

This bill authorizes the department of commerce to award grants for costs associated with the start–up or expansion of a business that is or will be located in a city, village or town that has a population of more than 6,000 or that is located in a county with a population density of 150 or more persons per square mile. The department may not award more than $15,000 to any one person in a fiscal biennium, and may not award more than $250,000 under the program in a fiscal biennium. A person may not receive a grant unless the person submits to the department a comprehensive informational application and contributes at least 25% of the cost of the project.

Currently, if the department of commerce designates an area as a development zone, a development opportunity zone or an enterprise development zone, a person or corporation that conducts or that intends to conduct economic activity in the designated zone may be eligible for certain tax credits, called development zones credits, based on the creation or retention of jobs and on expenses incurred to remediate environmental problems.

This bill eliminates the requirement that the department obtain the approval of the joint committee on finance to designate more than 50 enterprise development zones and increases the number of enterprise development zones that the department may designate to 100. The bill increases the amount in tax credits that the department must allow a person to claim for creating or retaining a job in a development zone or in an enterprise development zone. The bill increases to $300,000,000 the total amount of tax credits that may be claimed under the development zone and enterprise development zone programs together. Under current law, the amount of tax credits that may be claimed under the development zone program is $33,155,000 and the amount that may be claimed under the enterprise development zone program is not specified. Finally, the bill authorizes the department to designate enterprise development zones for projects that will likely provide for significant environmental remediation. Under current law, the department may designate an enterprise development zone only for a project that is likely to retain or increase employment in the state and that will likely have a positive effect on an area that meets at least three criteria relating generally to economic circumstances. Of the 100 enterprise development zones that the department may designate under the bill, the department must designate at least ten for projects for environmental remediation.

Currently, the department of commerce awards grants to persons for the redevelopment of brownfields and associated environmental remediation activities. Brownfields are abandoned, idle or underused industrial or commercial facilities or sites that are adversely affected for expansion or redevelopment by actual or

perceived environmental contamination. Grants are paid from general purpose revenue and from moneys from the environmental fund.

The bill adds another type of grant to the program based on the creation or retention of jobs. Under the bill, any person eligible for a grant under the current program is eligible for the new type of grant if, in addition to satisfying the criteria under current law, the grant applicant creates or retains jobs with the grant proceeds. At least 80% of the jobs created or retained must be filled by individuals who are parents of minor children and who have family incomes that do not exceed 200% of the federal poverty line. The new grants are paid from the federal temporary assistance for needy families block grant moneys. The current requirement that the department must award at least seven grants under the program for projects that are located in municipalities with a population of less than 30,000 is changed to a requirement that the department must award at least 14 grants for projects that are located in municipalities with a population of less than 50,000.

Currently, WHEDA guarantees the repayment of loans made to businesses and individuals for various specified purposes by private lending institutions. The loans are guaranteed from the Wisconsin development reserve fund. This bill transfers $2,000,000 from the Wisconsin development reserve fund to the environmental fund, which funds such activities as environmental repair, groundwater management and nonpoint source water pollution abatement. In addition, the bill reduces WHEDA's loan guarantee authority for the remediation of brownfields.

Currently, moneys in the housing rehabilitation loan program administration fund may be used to pay for WHEDA's expenses in administering the housing rehabilitation loan program, which promotes housing rehabilitation through, among other things, the purchase of housing rehabilitation loans from lenders. Moneys may be transferred to the general fund if the moneys are no longer required for the housing rehabilitation loan program. This bill eliminates the transfer of moneys to the general fund and instead authorizes the transfer of moneys to the Wisconsin development reserve fund, which WHEDA uses to fund loan guarantees under all of its loan guarantee programs.

The bill also eliminates the cultural and architectural landmark loan guarantee program, under which WHEDA may guarantee a loan to an organization for acquiring, constructing, improving or rehabilitating a property that is an architectural masterpiece and that has historical significance.

Under the statutes, records created and maintained by a governmental agency are normally open to inspection by anyone who requests inspection or copies of the records. Also under current law, a governmental agency is prohibited from selling or renting a record containing an individual's name or address unless authorized by statute. This bill allows the department of tourism to refuse to reveal names, addresses and related demographic information from any lists maintained by the department of persons who have requested travel information from the department. In addition, if the department reveals information from any such list, the

department may charge a fee to recover its costs in compiling and providing the information.

Under current law, the department of commerce awards grants to community–based organizations for regional economic development, but is limited in the amount that it may award in a fiscal year. This bill removes this limit so that the department may use its discretion in the total amount of grants awarded.

Under current law, the department of commerce provides technical assistance, or a grant for technical assistance, to individuals, nonprofit organizations and businesses with fewer than 25 full–time employes for developing and planning the start–up or expansion of a business that is expected to provide job opportunities for persons with severe disabilities. This bill makes businesses with fewer than 100 employes eligible for such assistance.

COMMERCE

This bill allows a savings bank, a savings and loan association and a state bank (a financial institution) to become certified by the division of banking in the department of financial institutions (DFI) as a universal bank. If certified as a universal bank, the financial institution may exercise certain additional powers.

In order to be certified as a universal bank, a financial institution must be chartered or organized, and regulated, as a Wisconsin financial institution and be in existence and continuous operation for at least three years; must be well–capitalized or adequately capitalized; must not exhibit moderately severe or unsatisfactory financial, managerial, operational and compliance weaknesses; and must not have been the subject of any enforcement action within the 12 months preceding the application.

A financial institution that the division of banking certifies as a universal bank retains its original status and remains subject to all of the laws that applied to the financial institution prior to its certification as a universal bank, except to the extent that such laws are inconsistent with the powers and duties of universal banks.

The bill expands the powers of a financial institution that becomes certified as a universal bank to include any activity authorized for any savings bank, savings and loan association or state bank. In addition, the bill does all of the following with respect to the powers that a universal bank may exercise:

1. The bill grants a universal bank the authority to exercise all powers that may be exercised, either directly or through a subsidiary, by a national bank, a federally chartered savings bank or a federally chartered savings and loan association.

2. A universal bank may deal in loans or extensions of credit for any purpose. Like state banks, the limitations imposed on a universal bank's lending generally focus on the total amount of liabilities of any one lender at any one time. Although the limit varies, the general rule is that the total liabilities of any one person to a universal bank may not exceed 20% of the capital of the universal bank. In addition, the bill grants a universal bank additional authority to lend an aggregate amount to all borrowers not to exceed 20% of the bank's capital. The division of banking may

suspend this additional authority based upon factors including the universal bank's capital adequacy, management, earnings, liquidity and sensitivity to market risk.

3. To the extent consistent with safe and sound banking powers, a universal bank may purchase, sell, underwrite and hold certain investment securities in an amount up to 100% of the universal bank's capital. A universal bank may not invest greater than 20% of its capital in any one obligor or issuer. Subject to certain limits, the bill also allows a universal bank to purchase, sell, underwrite and hold equity securities. Universal banks may also invest in certain housing properties and projects and profit–participation projects. The bill provides that a universal bank also may invest without limitation in several specific types of securities. The universal bank may invest in risk management instruments, including financial futures transactions, financial operations transactions and forward commitments, solely for the purpose of reducing, hedging or otherwise managing its interest rate risk exposure. In addition, a universal bank may invest in other financial institutions. However, the bill contains specific provisions governing the purchase by a universal bank of its own stock and of stock in banks and bank holding companies.

4. The bill grants a universal bank the authority to establish the types and terms of deposits that the universal bank solicits and accepts. A universal bank may pledge its assets as security for deposits and, with the approval of the division of banking, may securitize its assets for sale to the public. In addition, a universal bank may exercise certain safe deposit and trust powers.

5. A universal bank may exercise all powers necessary or convenient to effect the purposes for which the universal bank is organized or to further the businesses in which the universal bank is lawfully engaged. In addition, the bill allows a universal bank to engage in activities that are reasonably related or incident to the purposes of the universal bank. The bill specifies numerous activities that are either reasonably related or incidental powers, including, real estate–related services; insurance services, other than insurance underwriting; securities brokerage; investment advice; securities and bond underwriting; mutual fund activities; financial consulting; and tax planning and preparation. A universal bank may also engage in any activity permitted to be engaged in by bank holding companies under the federal Bank Holding Company Act.

Under Wisconsin's version of the Uniform Unclaimed Property Act (UUPA), the holder of certain types of intangible property that is presumed to be abandoned must report and deliver the property to the state treasurer. If the presumption that the property is abandoned is incorrect, the holder must file a statement with the state treasurer explaining the error in the presumption. The UUPA defines intangible property to include a sales credit reflected in a vendor's bookkeeping. This bill excludes from the definition of intangible property a balance credited by a business association to a commercial customer's account in the ordinary course of business. Thus, the bill eliminates the requirement that a vendor either report and deliver to the state treasurer a sales credit issued to a commercial customer's account or file

a statement with the state treasurer explaining why the sales credit is not reportable as abandoned property.

Under current law, certain articles and substances, including toys containing mercury, are statutorily banned from being sold or distributed in this state. This bill expands the ban to include fever thermometers that contain mercury.

Under current law, a person who owns a meter used to sell or deliver liquefied petroleum gas must comply with certain requirements to ensure the accuracy of the meter and the price charged to the purchaser. These requirements include registering the meter with the department of agriculture, trade and consumer protection (DATCP) and having the meter inspected annually by a meter servicing company that is licensed by DATCP. The meter service company then must file with DATCP a report of the test results.

This bill changes the registration requirement to a licensing requirement and imposes the requirement on the operator of the meter instead of the owner. The bill also imposes the requirement that the meter be inspected on the operator instead of on the owner.

Current law imposes fees on meter owners for failing to comply with these registration and testing requirements and on meter servicing companies for failing to comply with the reporting requirements. The bill authorizes DATCP to suspend or revoke operator licenses for and meter and servicing licenses for these failures.

On January 1, 1999, 11 members of the European Union (Germany, France, Italy, Spain, the Netherlands, Belgium, Portugal, Finland, Ireland, Austria and Luxembourg) adopted the euro as their single currency. Beginning January 1, 1999, there is a three-year period for the conversion of the currencies of the members to the euro. On January 1, 2002, euro notes and coins will be introduced and on July 1, 2002, the member currencies will be withdrawn from circulation.

This bill provides a general mechanism for interpreting contracts or other legal instruments that are entered into or executed in this state or that contain provisions that require the contract or other legal instrument to be interpreted according to the laws of this state and that use currencies or other monetary units affected by the introduction of the euro. Generally, under the bill, any contract or other legal instrument that uses a currency or other monetary unit that is affected by the euro must use the euro as a commercially reasonable substitute for the currency or monetary unit. The bill also provides that no person may discharge or otherwise excuse performance under any contract or other legal instrument, or unilaterally alter the terms of, or terminate, any contract or other legal instrument, as a result of the requirement that the euro be a commercially reasonable substitute for the currency or monetary unit.

space → This bill changes the name of the division of savings and loan in DFI to the division of savings institutions.

This bill authorizes DFI to charge members of the public a fee for accessing or using DFI's databases or computer systems.

BUILDINGS AND SAFETY

Under current law, the department of commerce regulates private sewage systems. A private sewage system is a sewage treatment system with a septic tank or an alternative sewage system approved by the department of commerce, such as a holding tank. Under current law, a person who is responsible for a point source of pollution (pollution from a pipe or similar conveyance into the surface water or groundwater of this state) is generally required to obtain a water pollution discharge permit from the department of natural resources (DNR).

Under this bill, the department of commerce regulates small sewage systems rather than private sewage systems. A small sewage system either is a wastewater treatment and disposal system that discharges below the surface of the ground and that has a design flow that does not exceed a maximum established by the department of commerce or is a holding tank. The bill authorizes DNR to exempt small sewage systems from the requirement to obtain a water pollution discharge permit.

Current law charges governmental units (counties in which small sewage systems are located or, for counties with a population of at least 500,000, the cities, villages or towns in which such systems are located) with certain regulatory duties concerning private sewage systems. Governmental units may delegate these regulatory duties to town sanitary districts or certain public inland lake protection and rehabilitation districts if these districts consent. This bill permits governmental units to delegate these regulatory duties to the department of commerce if the department consents.

Under current law, one statute authorizes governmental units to issue sanitary permits for the installation of small sewage systems and another statute authorizes both the department of commerce and governmental units to issue sanitary permits. The department's practice has been to issue sanitary permits for the installation of small sewage systems on state–owned property only. This bill permits both the department and governmental units to issue sanitary permits for the installation of small sewage systems on either private or state–owned property.

Current law prohibits a governmental unit from issuing a sanitary permit for the installation of a small sewage system if the department of commerce finds that the governmental unit has not adopted a small sewage system ordinance, as required by law, or if the governmental unit fails to carry out its regulatory duties concerning small sewage systems. This bill provides instead that the department may order the governmental unit to remedy its failure to adopt a small sewage system ordinance or to carry out its regulatory duties.

Under current law, the department of commerce administers a grant program for the replacement or rehabilitation of certain types of failing small sewage systems. Generally, a covered system is one that discharges sewage into surface water,

groundwater or bedrock or to drain tile or the surface of the ground. Under the program, the department awards grants to eligible local governmental units which, in turn, award grants to eligible individuals and businesses. A person is generally eligible for a grant to replace or rehabilitate a failing sewage system if, among other things, he or she owns a principal residence that was constructed and inhabited before July 1, 1978, and that is served by a covered system and if the person's annual Wisconsin adjusted income does not exceed $45,000. If there is insufficient funding for all eligible individuals and businesses, the grants are prorated.

Under this bill, in a year in which the department of commerce must prorate funds under the program, a local governmental unit that received a prorated grant may apply for a no–interest loan to increase the prorated grants provided to eligible individuals and businesses. To obtain a loan, a local governmental unit must enter into a financial assistance agreement with the department of administration and the department of commerce. In addition, this bill provides that a person is eligible for a grant if the system serving the principal residence was installed before July 1, 1978, the person's federal adjusted gross income does not exceed $45,000 and the person meets the other eligibility requirements.

Current law requires small sewage systems to be inspected every three years by, among others, persons licensed by DNR to service septic tanks (pumpers). This bill eliminates pumpers as a class of approved inspectors for small sewage systems and adds small sewage system inspectors certified by DNR. The bill also eliminates the three–year inspection requirement and requires instead that DNR establish a schedule for the inspection or pumping of systems.

Space Current law requires cities and metropolitan sewerage districts to report to DNR each failure of a state licensed plumber to qualify as a journeyman or master plumber and each wilful violation of any plumbing regulation. This bill eliminates this reporting requirement.

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

This bill provides that the department of corrections (DOC) may not enter into any contract or other agreement if, in the performance of the contract or agreement, a prisoner would perform data entry or telemarketing services and have access to any information that may serve to identify a minor or have access to an individual's financial transaction card numbers, checking or savings account numbers or social security number. Under the bill, a financial transaction card means an instrument or device issued to the cardholder for obtaining anything on credit, for certifying or guaranteeing the availability of funds sufficient to honor a draft or check or for gaining access to an account.

Under current law, DOC may, until July 1, 1999, operate the juvenile secured correctional facility at Prairie du Chien as a state prison for nonviolent offenders who are not more than 21 years of age. This bill extends that authority to July 1, 2001.

This bill requires DOC to establish a probation and parole holding and alcohol and other drug abuse treatment facility in Milwaukee, a medium security correctional institution in Redgranite and a medium security correctional facility in New Lisbon.

JUVENILE CORRECTIONAL SYSTEM

Under current law relating to community youth and family aids (generally referred to as "youth aids"), various state and federal funds are allocated to counties to pay for state–provided juvenile correctional services and local delinquency–related and juvenile justice services. DOC charges counties for the costs of services provided by DOC. This bill provides new per person daily cost assessments upon counties for juvenile placements during the 1999–2001 fiscal biennium as follows:

align w/ "Under"

Placement	*7/1/1999 to 12/31/1999*	*1/1/2000 to 12/31/2000*	*1/1/2001 to 6/30/2001*
Juvenile correctional institution	$157.29	$158.46	$159.62
Transfers from a juvenile correctional institution to a treatment facility	$157.29	$158.46	$159.62
Child caring institution	$169.24	$172.46	$175.67
Group home	$117.42	$119.65	$121.88
Foster care	$26.17	$26.67	$27.16
Treatment foster care	$75.37	$76.80	$78.23
Departmental corrective sanctions services	$85.18	$80.67	$76.67
Departmental aftercare	$16.85	$17.03	$17.20

Under current law, DOC may operate or contract for the operation of secured correctional facilities for holding in secure custody juveniles who have been adjudicated delinquent and placed in a secured correctional facility under the supervision of DOC by the court assigned to exercise jurisdiction under the juvenile justice code (juvenile court). Current law also permits DOC to license child welfare agencies to operate secured child caring institutions (secured CCI's) for holding in secure custody juveniles who have been adjudicated delinquent and referred to the child welfare agency by the juvenile court or by DOC. A juvenile court may place a juvenile in a secured correctional facility or a secured CCI only if the juvenile has been adjudicated delinquent for committing an act that would be punishable by a

sentence of six months or more if committed by an adult and has been found to be a danger to the public and in need of restrictive custodial treatment.

This bill permits the county board of supervisors of not more than one county to establish, and DOC to license, a secured group home for holding in secure custody juveniles who have been adjudicated delinquent for committing an act that would be punishable by a sentence of six months or more if committed by an adult, who have been found to be a danger to the public and in need of restrictive custodial treatment and who have been placed under the supervision of DOC by the juvenile court.

Under current law, various laws apply to juveniles who are placed in a secured correctional facility or a secured CCI. Those laws relate to such subjects as sex offender registration, the commitment of sexually violent persons, a deoxyribonucleic acid data bank of sex offenders, human immunodeficiency virus (HIV) testing when certain persons have been significantly exposed to HIV, adult jurisdiction and criminal penalties for certain persons who commit assault, transfers to a state treatment facility, aftercare planning, escape, notification of victims and witnesses when a juvenile is released or escapes from correctional custody, taking runaways into custody, strip searches and an exception to the open records law when disclosing a record would endanger the security of an institution. This bill applies those laws to juveniles who are placed in a secured group home in the same manner as those laws apply to juveniles who are placed in a secured correctional facility or a secured CCI.

Under current law, DOC provides a corrective sanctions program for juveniles who have been placed under the supervision of DOC. Under the corrective sanctions program, DOC must place a participant in the community, provide intensive surveillance of the participant and provide an average of $5,000 per year per slot to purchase community–based treatment services for participants. This bill reduces the amount that DOC must provide to purchase community–based treatment services for corrective sanctions program participants to $3,000 per year per slot.

COURTS AND PROCEDURE

CIRCUIT COURTS

Current law provides for limited payment of attorney fees by the unsuccessful litigant to the successful litigant in all civil actions. In a civil action concerning money damages or property, the successful litigant is entitled to attorney fees based on the following schedule:

Amount recovered / value of property	*Fee*
$1,000 or more	$100
$500 to $999.99	$ 50
$200 to $499.99	$ 25
Under $200	$ 15

This bill changes the amount of attorney fees allowed in these cases as follows:

Amount recovered / value of property	*Fee, not to exceed*
Greater than $5,000	$500
$1,000 to $5,000	$300
Under $1,000	$100

The bill also increases the amount of attorney fees recoverable in civil cases that do not involve money damages or property from a maximum of $100 to a maximum of $500.

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Under current law, in civil cases certain disbursements, such as those made for the costs of certified copies of public papers or records, postage and depositions, are recoverable by the successful litigant, but are limited to $50 for each item. This bill expands the list of disbursements that are recoverable to include such items as overnight delivery and facsimile transmissions and increases the limit to $100 for each item. The bill also increases the amount that a successful litigant may recover for the cost of each expert witness testifying on behalf of the successful litigant from $100 to $300 and for filing a motion from $50 to $300.

Under current law, when the clerk of circuit court collects a fee from a person commencing a civil action, including garnishment, small claims and forfeiture actions, the clerk is also required to collect a $7 justice information system fee. Four–sevenths of the $7 fee is used to pay the costs incurred by the department of administration to develop and operate the automated justice information system. Two–sevenths of the $7 fee is used to pay the costs incurred by the director of state courts for the operation of the circuit court, court of appeals and supreme court automated information systems and for the payment of interpreter fees. The remaining $1 of the fee does not have a specified purpose.

This bill raises the justice information system fee from $7 to $9 and uses the additional $2 of each fee to pay the costs incurred by the director of state courts for the operation of the circuit court, court of appeals and supreme court automated information systems and for the payment of interpreter fees.

PUBLIC DEFENDER

Under current law, the state public defender (SPD) provides legal representation to indigent persons in criminal, delinquency and certain related cases. The SPD assigns cases either to staff attorneys in the agency's trial division or local private attorneys. A staff attorney working in the trial division is expected to meet an annual caseload standard. This bill provides that, beginning on July 1, 2000, the SPD may exempt up to ten staff attorneys in the trial division from the annual caseload standards based on the need of those attorneys to perform other assigned duties.

OTHER COURTS AND PROCEDURE

Under current law, a person is subject to a forfeiture if he or she violates a law relating to weights and measures. These include laws against obstructing or

hindering a state or local inspector of weights or measures, causing any weight or measure used in the buying or selling of a commodity to be incorrect and removing an official weights and measures inspector's tag from a commodity. If the violation is intentional, the person is subject to a fine.

This bill requires a court to impose an assessment equal to 15% of the fine or forfeiture if the court imposes a fine or forfeiture for a violation of any of these laws or local ordinances enacted pursuant to these laws. The assessments that are collected are appropriated to the department of agriculture, trade and consumer protection to pay for providing consumers with information and education.

Currently, the state is immune from most lawsuits. Although state authorities, local governments and state and local governmental officers, employes and agents may be sued, statutory and common law limitations severely limit the types of lawsuits that may be brought against, and the amounts and types of damages that may be recovered from, these entities. Currently, these entities may also limit their liability by contract.

This bill prohibits lawsuits, to the extent that they are now permitted, against these entities for the alleged failure to deal with the failure of a computer system to handle any date, or the inability of a computer system to interpret, produce, calculate, generate, utilize, manipulate, represent or account for any date, if the entities make a good faith effort to address the alleged failure. The immunity provided by the bill may not be waived.

The bill also eliminates current requirements for the state and local governments to pay interest to vendors on late payments arising from date–related failures described above.

Under current law, the governmental unit that provides certain public assistance benefits as a result of an injury, sickness or death that creates a claim or cause of action on the part of a public assistance recipient or beneficiary or his or her estate against a third party must be joined by the plaintiff as a party to the claim or action. The governmental unit has the right to recover from the third party the amount provided in public assistance benefits. This is known as subrogation. The governmental unit may make a claim or maintain an action or intervene in a claim or action by the recipient, beneficiary or estate against the third party. A party that is joined in a cause of action based on subrogation may, among other things, agree to have his or her interests represented by the party who caused the joinder. If this option is selected the subrogated party must sign a written waiver of the right to participate in the action.

Under this bill, if the department of health and family services (DHFS) is joined based on subrogation because of the provision of medical assistance (MA) benefits, DHFS need not take any affirmative action in order to have its interests represented by the party causing the joinder.

Currently, an attorney retained to represent a current or former recipient of public assistance benefits, or the recipient's estate, in asserting a claim that is subrogated, must provide notice of the claim, and of any award or settlement, to the

governmental unit that provided the benefits. If an attorney is not representing the current or former recipient of public assistance in asserting a claim that is subrogated, the current or former recipient or his or her guardian most provide the notice. If the recipient is deceased, the personal representative of the recipient's estate must provide the notice if an attorney is not representing the estate.

This bill requires a person against whom a subrogated claim is made, or that person's attorney or insurance company, to provide notice of the claim, and of any award or settlement, to DHFS if that person, or that person's attorney or insurer, knows or should know that the claim is subrogated because of the provision of MA benefits. Additionally, under this bill, if DHFS or a county is a subrogated party because of the provision of MA benefits, the subrogation creates a lien on the claimant's recovery, equal to the amount of the MA paid as a result of the injury, sickness or death that gave rise to the claim.

Under current law, DHFS must file a claim against the estate of a recipient of certain health aids for the amount of aid paid to the recipient. If the recipient's spouse or minor or disabled child survives the recipient, and the recipient's estate includes an interest in a home, the probate court must, in the final judgment, assign the interest in the home subject to a lien in favor of DHFS for the amount of DHFS' claim. Currently, small estates may be settled or assigned summarily, in which case a final judgment is not entered. Instead, a summary order is entered. This bill states that the lien requirement extends to cases in which assignment of the home is made by summary order.

EDUCATION

PRIMARY AND SECONDARY EDUCATION

Current law allows up to 15% of the enrollment of the Milwaukee Public Schools (MPS) to attend, at no charge, any private school located in the city of Milwaukee under certain circumstances. The state pays the parent or guardian of the pupil an amount equal to the amount of per pupil aid that MPS receives from the state or an amount equal to the private school's educational cost per pupil, whichever is less. The parent or guardian must endorse the check for the use of the private school. The state reduces the MPS school aid entitlement, for each pupil participating in the program, by the amount of per pupil aid that MPS would otherwise receive.

Under current law, the city of Milwaukee, the University of Wisconsin–Milwaukee and Milwaukee Area Technical College may establish and operate a charter school or may initiate a contract with an individual or group to operate a school as a charter school. For each pupil attending the charter school, the state pays the charter school an amount equal to the shared cost per pupil (the portion of a school district's costs that are aided by the state divided by the school district's enrollment) of MPS and reduces the MPS school aid entitlement by an identical amount.

Current law also generally limits the increase in the total amount of revenue per pupil that a school district may receive from general school aids and property taxes in a school year to $208.88 per pupil in the 1998–99 school year and, in

subsequent school years, to the amount of revenue increase allowed per pupil in the previous school year increased by the percentage change in the consumer price index. To determine the total allowable revenue increase for a school district under the revenue limit, the department of public instruction (DPI) uses a three–year rolling average pupil enrollment, which includes, for MPS, some of the pupils enrolled in the choice program and the charter schools described above. DPI may adjust a school district's revenue limit upwards or downwards for a number of contingencies, including transfers of service responsibilities between a school district and another governmental unit and changes in a school district's boundaries. Any school district that received less in revenue per pupil in the previous school year than a revenue ceiling of $6,100 (low–revenue district) may increase its revenues up to the revenue ceiling. A low–revenue district is not subject to a revenue limit and its concomitant adjustments.

Beginning in the 1999–2000 school year, this bill replaces the per pupil inflation adjustment with a fixed revenue limit of $208.88 per pupil. The bill also provides that, beginning with aid paid in the 1999–2000 school year, pupils participating in the choice program or attending one of the charter schools described above are not counted in the enrollment of MPS for state aid purposes and are not counted in the three–year rolling average for revenue limit purposes. The MPS school aid entitlement is not reduced as a result of such participation or attendance. In addition, the bill directs DPI to adjust the revenue ceiling of a low–revenue school district as if it constituted a revenue limit.

Currently, if a school district's three–year rolling average for the 1998–99 school year is less than the average of the number of pupils enrolled in the school district in the three previous school years, the school district's revenue limit is increased for the 1998–99 school year by the additional amount that would have been calculated had the decline in the three–year rolling average enrollment been 25% of what it was. This bill extends this one–year revenue limit increase for declining enrollment to subsequent school years.

Current law generally provides that the enrollment of a school district in the previous school year must be used to calculate general school aid for the current school year. The enrollment of MPS, however, includes pupils in the choice program in the current school year who were enrolled in grades kindergarten to three in a private school located in Milwaukee in the previous school year and who did not participate in the choice program. This bill eliminates these additional choice pupils from MPS enrollment for calculating general state aid.

Current law provides two special state aid adjustments for any school district that would otherwise receive in any school year less than 85% of the aid that it received in the previous school year. If a school district is eligible for both of these special state aid adjustments, the school district's state aid is increased to an amount equal to 85% of the state aid that the school district received in the previous school year. A school district is entitled to receive a special state aid adjustment only if the additional aid does not result in a state aid payment greater than the school district's shared cost. This bill provides that, if a school district is eligible for both special state

aid adjustments, the school district receives the greater adjustment if the additional aid does not result in a state aid payment greater than the school district's shared cost.

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Under current law, if a school district exceeds its revenue limit without referendum approval, DPI must reduce the school district's state equalization aid payment by the excess revenue amount. If a school district's equalization aid is less than the penalty amount, DPI must reduce the school district's other state aid payments until the remaining excess revenue is covered. If the aid reduction is still insufficient to cover the excess revenues, DPI must order the school board to reduce the property tax levy by an amount equal to the remainder of the excess amount or refund the amount with interest, if taxes have already been collected. DPI does not include the excess revenue in the school district's base. This bill imposes these same penalties on low–revenue school districts that exceed their revenue ceilings.

Current law requires each school board to adopt either its own academic standards or the academic standards contained in the governor's executive order issued January 13, 1998, and to administer fourth and eighth grade promotional examinations to fourth and eighth grade pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district. Beginning in the 2000–01 school year, each school board must also administer a high school graduation examination that is designed to measure whether pupils have met the academic standards adopted by the school board. A school board may either adopt examinations developed by DPI or develop its own examinations. A school board must notify DPI if it adopts its own high school graduation examination instead of the high school graduation examination developed by DPI, and it must determine the high school grades in which the examination is administered each school year.

This bill provides that a school board must administer the high school graduation examination to all pupils enrolled in a charter school located in the school district other than a Milwaukee charter school described above. The bill also provides that the operator of a Milwaukee charter school must adopt academic standards and administer fourth, eighth and high school graduation examinations to pupils enrolled in the charter school. The operator may either adopt DPI's examinations or develop its own. In addition, the bill requires a school board or the operator of a Milwaukee charter school to notify DPI annually by October 1 if it intends to administer its own high school graduation examination in the following school year and provides that, beginning in the 2001–02 school year, the high school graduation examination may be administered only to 11th and 12th graders.

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Current law requires each school board and operator of a Milwaukee charter school to administer the tenth grade examination developed by DPI to all tenth graders enrolled in the school district or the charter school. This requirement does not apply after the 2000–01 school year. This bill eliminates the expiration of the tenth grade examination requirement.

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Under current law, beginning September 1, 2002, a school board may not grant a high school diploma to a pupil unless he or she passes the high school graduation examination. Beginning July 1, 2002, a pupil may not be promoted from the fourth

to the fifth grade or from the eighth to the ninth grade unless the pupil passes the fourth and eighth grade promotional examinations. A pupil's parent or guardian, however, may excuse a pupil from taking any of these examinations. A pupil who is excused must satisfy alternative criteria for promotion or graduation.

This bill imposes upon operators of Milwaukee charter schools the same prohibitions against promotion that are imposed upon school boards. Finally, the bill eliminates the authority of a pupil's parent or guardian to excuse the pupil from taking the high school graduation examination.

Under current law, a school board, board of control of a cooperative educational service agency (CESA) or a county children with disabilities education board is eligible for special education aid if the state superintendent of public instruction is satisfied that the special education program has been maintained according to law. This aid is equal to a percentage of the amount expended on special education costs in the preceding school year.

This bill eliminates the reimbursement rates for handicapped education costs and school age parents program costs and directs that aidable costs be fully reimbursed, subject to the availability of funds. The bill also provides that the operator of a Milwaukee charter school described above is eligible for special education aid, on a current school year basis, if the operator operates a special education program and the state superintendent is satisfied that the operator has complied with the federal Individuals With Disabilities In Education Act as though the operator were a school board.

Under current law, a charter school may be established by, among other things, petitioning the school board of the school district in which the charter school will be located to enter into a contract with a person to establish and operate a charter school. Within 30 days after receiving a charter school petition, the school board must hold a public hearing on the petition. The MPS board must grant or deny a petition to establish a charter school within 30 days after the public hearing. If the MPS board denies the petition, the person seeking to establish a charter school may, within 30 days of the denial, appeal the denial to the state superintendent of public instruction, who must decide the appeal within 30 days after receiving it.

This bill requires all school boards to grant or deny a charter school petition within 30 days after the public hearing and permits the person seeking to establish a charter school to appeal a denial of a charter school petition to the state superintendent.

Under current law, the Milwaukee charter schools described above are not instrumentalities of MPS, and the MPS board may not employ any personnel for these charter schools. If, however, the city of Milwaukee contracts with an individual or group operating for profit to operate a charter school, the charter school is an instrumentality of MPS and the MPS board must employ all personnel for the charter school.

This bill provides that if the city of Milwaukee contracts with an individual or group operating for profit to operate a charter school, the charter school is not an instrumentality of MPS, and the MPS board may not employ any personnel for the charter school.

Current law authorizes the MPS board to contract with any nonsectarian private school located in the city to provide educational programs for pupils enrolled in the school district. The MPS board may also close any school that it determines is low in performance. If the MPS board closes a school or reopens a school that has been closed, the superintendent of schools may reassign the school's staff without regard to seniority in service. In addition, the MPS board is prohibited from bargaining collectively with respect to: 1) the board's decision to contract with a private nonsectarian school or private nonsectarian agency in the city to provide educational programs to pupils, or the impact of any such decision on the wages, hours or conditions of employment of the employes who perform those services; or 2) the reassignment of employes who perform services for the board, with or without regard to seniority, as the result of a decision of the board to close or reopen a school or to contract with a person to operate a charter school or convert a school to a charter school, or the impact of any such reassignment on the wages, hours or conditions of employment of the employes who perform those services. This bill extends the above provisions to cover all school boards.

This bill provides that, beginning in 2001, no public school may commence its school term until September 1. The bill specifies that the prohibition does not prevent a school board from holding athletic contests or practices before that date, scheduling in–service days or work days before that date or holding school year–round.

In the 1996–97 and 1998–99 school years, a school board having a school with an enrollment that was at least 50% low–income in the previous school year was permitted to enter into a five–year achievement guarantee contract with DPI on behalf of one school in the school district (and up to ten schools in MPS) if, among other things, in the previous school year that school had an enrollment that was at least 30% low–income. Under these contracts the school district must reduce class size and improve academic achievement in grades kindergarten to three in the school or schools covered by the contract in exchange for receiving state aid.

This bill permits a school board to enter into a five–year achievement guarantee contract beginning in the 2000–01 school year on behalf of one or more schools if, among other things, in the previous school year a school in the school district had an enrollment that was at least 50% low–income and each school on whose behalf the school board contracts had an enrollment that was at least 62% low–income (80% low–income for MPS).

Under current law, a school board may request DPI to waive school board or school district requirements except those pertaining to, among other things, teacher

licensing. This bill permits a school board to request a waiver of the teacher licensing requirement.

This bill prohibits the state superintendent of public instruction from renewing a teaching license unless the person seeking renewal has received training in educational technology.

Current law directs DPI to award a $2,000 grant in the 1999–2000 school year to any person who is certified by the National Board for Professional Teaching Standards (NBPTS) before July 1, 2000, and who satisfies several additional conditions. In the 2000–01 school year, DPI must award a $2,500 grant to each person who received a $2,000 grant, maintains his or certification by the NBPTS and satisfies several additional conditions.

This bill eliminates all of the above dates. Under the bill, a person who becomes certified by the NBPTS receives the initial $2,000 grant in the school year in which he or she becomes certified. The bill also directs DPI to award the person a $2,500 grant in each of the succeeding nine years.

Under current law, referenda are required or authorized to be held by school districts to incur debt or exceed state revenue limits, or to exceed the levy rate limit for a school construction fund that is applicable only to MPS. Currently, these referenda are required or authorized to be held at special elections when no offices appear on the ballot.

This bill provides that such referenda must be held concurrently with the spring election (held in each year) or the general election (held in each even–numbered year), or on the Tuesday after the first Monday in November in an odd–numbered year.

Current law directs DPI, the department of administration (DOA) and the legislative fiscal bureau to estimate jointly the amount necessary to appropriate as general school aid to ensure that the total amount of state aid received by all school districts equals two–thirds of total school district revenues from state aid and property taxes.

This bill provides that the amounts received by school districts to compensate them for the reduction in their tax bases due to the property tax exemption for computers is included in the calculation of school district revenues.

Under current law, the state superintendent of public instruction administers four alcohol and other drug abuse prevention and intervention grant programs for school districts. Current law also limits the amount the state superintendent may award under each grant program.

This bill consolidates the alcohol and other drug abuse prevention and intervention programs into one grant program administered by the state superintendent and allows a school board to apply for a grant to fund any kind of alcohol and other drug abuse prevention and intervention program. In addition, the

bill eliminates the limit on the amount of each grant that the state superintendent may award.

This bill directs the state superintendent to award grants to school districts, CESAs and other persons for staff development.

This bill directs the state superintendent to consult with the technology for educational achievement in Wisconsin (TEACH) board before awarding school technology resource grants. School technology resource grants are funded with federal moneys and are awarded to school districts for various educational technology purposes.

Current law authorizes the state superintendent to award a grant to a nonprofit corporation to fund partially the costs of planning, developing and operating a youth village program. A youth village program is a residential program that provides an alternative education for pupils whose life outside school seriously interferes with their educational progress and who are functioning below their grade level in basic academic skills, are behind in academic credits or have a record of poor grades or attendance problems. This bill eliminates the youth village grant program.

This bill directs DPI to award grants to school districts for smoking prevention programs in grades kindergarten to eight. A grant may not exceed $10,000.

Under current law, DPI distributes general purpose revenue to head start agencies, which provide comprehensive health, educational, nutritional, social and other services to economically disadvantaged children and their families. This bill changes the source of the funding for the head start program and a variety of other early childhood education programs from general purpose revenue to moneys from the federal temporary assistance for needy families block grant.

Under current law, an alternative school for American Indians may voluntarily establish an American Indian language and culture education program. If the alternative school meets certain management and accounting criteria, it is eligible to receive $185 from DPI for each pupil who completes the fall semester in the program of instruction. This bill increases the aid for which the alternative school is eligible to $200 per pupil and provides that this aid is paid from moneys derived from Indian gaming receipts.

Under current law, a pupil who transfers from one school district to another to reduce racial imbalance under the interdistrict special transfer program (commonly known as chapter 220) is counted as one pupil for state aid and revenue limit purposes by the school district in which the pupil resides. A school district that participates in the intradistrict special transfer program receives additional state aid.

This bill provides that each interdistrict transfer pupil is counted by the school district in which he or she resides as one–half pupil for state aid and revenue limit purposes. The bill also requires MPS to use at least 10% of the intradistrict aid that it receives in each school year to build or lease neighborhood schools.

HIGHER EDUCATION

Current law prohibits the University of Wisconsin Hospitals and Clinics Authority (UWHCA) from issuing bonds or incurring additional indebtedness if the aggregate amount of the UWHCA outstanding bonds, together with all other indebtedness of UWHCA, exceeds $50,000,000. This bill increases this amount to $90,000,000. In addition, the bill prohibits UWHCA from issuing any new bonds for the purpose of purchasing a clinic or a hospital.

Under current law DOA administers the college tuition prepayment program, which allows an individual, a trust or a legal guardian to purchase tuition units from DOA that may be redeemed in the future to pay tuition at any accredited institution of higher education in the United States.

This bill transfers administration of the college tuition prepayment program from DOA to the state treasurer. The bill also makes two modifications to the program. Under current law, if a contract is terminated, under certain circumstances DOA may not issue a refund for one year and may not issue a refund of more than 100 tuition units in any year. This bill eliminates these restrictions and clarifies that tuition units may be used to pay mandatory student fees.

Under current law, the board of regents of the University of Wisconsin (UW) System may exempt up to 200 students at the UW–Parkside campus and up to 150 students at the UW–Superior campus from nonresident tuition in programs identified as having surplus capacity. This tuition award program (TAP) terminates at the end of the 1998–99 academic year. This bill extends the termination date of TAP until the end of the 2000–01 academic year.

This bill directs the board of regents of the UW System to allocate $1,000,000 from the UW System's general program operations appropriation in each year of the biennium to advance the work of the UW center for tobacco research and intervention.

This bill enumerates in the 1999–2001 state building program a full–scale aquaculture demonstration facility to be built at Ashland and to be operated by the board of regents of the UW System. Under the bill, $3,000,000 in program revenue supported borrowing is authorized for the construction of the facility. The program revenue that will support the borrowing consists of moneys received by the state from the Indian gaming compacts.

Current law directs the technical college system (TCS) board to administer, or contract for the administration of, the telecommunications retraining program. Under the program, which is funded by contributions from telecommunications companies, certain telecommunications industry workers are eligible to receive grants for retraining. The program expires at the end of the 1998–99 fiscal year.

This bill extends the expiration date of the program to June 30, 2000, and requires additional contributions from telecommunications companies if the telecommunications retraining board determines that additional contributions are necessary.

This bill directs the TCS board to produce an annual statewide guide containing information on all of the technical colleges and their programs and to distribute it to students, parents, high school personnel and others. For this purpose, the bill authorizes the board to use up to $125,000 of the amount appropriated each fiscal year as state aid for the technical colleges.

This bill directs the TCS board to award a grant in the 1999–2001 fiscal biennium to the Waukesha County Technical College for the development of its printing program.

OTHER EDUCATIONAL AND CULTURAL AGENCIES

Under current law, the educational communications board (ECB) is responsible for overseeing and coordinating the provision of public broadcasting to Wisconsin. In addition, the board of regents of the UW System, as licensee, must manage, operate and maintain a radio and television station and provide the ECB part–time use of equipment and space necessary for the operations of the state educational radio and television networks.

This bill directs the secretary of administration, the president of the UW System and one person chosen by the governor to draft and file articles of incorporation for a nonstock, nonprofit educational broadcasting corporation and to take all actions necessary to exempt the corporation from taxation under the Internal Revenue Code. In addition, these persons must prepare and submit to the joint committee on finance (JCF) for JCF's approval an operational plan for the corporation that includes a list of those persons employed by the board of regents and the ECB who are best–suited to provide educational broadcasting services for the corporation and an estimate of the level of funding necessary to cover the corporation's annual operating expenses.

The corporation is entitled to receive state aid for initial administrative expenses if its articles of incorporation state that the purpose of the corporation is to provide educational broadcasting to this state; the articles of incorporation name as initial directors the secretary of administration, two representatives to the assembly, two senators, a member of the board of regents and three individuals selected by the governor; and the initial board of directors of the corporation submits an application to the federal communications commission (FCC) to transfer all broadcasting licenses held by ECB and the board of regents to the corporation.

If the FCC approves the transfer of all broadcasting licenses held by the ECB and the board of regents to the corporation, the ECB is eliminated on the effective date of the transfer of the broadcasting licenses. In addition, the corporation is entitled to receive additional state aid for operational expenses if, among other things, the board of directors of the corporation offers employment beginning on the effective date of the transfer of all of the broadcasting licenses to those individuals designated in the operational plan; the board of directors of the corporation negotiates with the board of regents and the secretary of administration for the use of state–owned equipment and space necessary for the operations of educational radio and television networks; and the secretary of administration approves any amendment to the corporation's articles of incorporation or bylaws.

This bill requires DOA to prepare a report on the privatization of state–owned and state–leased communications towers that are used for public broadcasting, except for the Milwaukee Area Technical College tower. The report must include a plan for implementing privatization. No later than June 30, 2000, DOA must submit the report to JCF for its approval.

Under current law, the public service commission (PSC) requires certain telecommunications providers to make contributions to the universal service fund. Moneys in the fund must be used for programs administered by the PSC for programs to promote universal access to telecommunications services and affordable access to high–quality education, library and health care information services, including a program for providing institutions with support payments for certain telecommunications services (institutional assistance program), and for certain other PSC programs. In addition, the fund is used for certain programs administered by the TEACH board, including an educational telecommunications access program for providing data lines and video links to certain educational institutions.

This bill eliminates the requirement for the PSC to use moneys in the fund to promote affordable access to high–quality education, library and health care information services. The bill also transfers the institutional assistance program to the TEACH board, which must provide support payments to eligible institutions as determined by the PSC. In addition, all of the PSC's duties regarding the educational telecommunications access program, except the PSC's duties regarding requiring telecommunications providers to contribute to the fund, are transferred to the TEACH board.

Under this bill, federated and consolidated public library systems and the Wisconsin Schools for the Visually Handicapped and the Deaf may also participate in the educational telecommunications access program. The bill allows any educational agency that participates in the program to obtain access to more than one data line if it can show to the satisfaction of the TEACH board that the additional lines are more cost–effective than a single line. An educational agency that obtains access to a data line under the program may enter into a shared service agreement with a city, village, town or county (political subdivision) that provides the political subdivision with access to any excess bandwidth on the data line that the educational

institution does not use. A political subdivision that obtains access to bandwidth may not receive compensation for providing access to the bandwidth to any other person and no moneys from the universal service fund may be used to pay installation costs that are necessary to provide a political subdivision with access to the bandwidth. The bill also prohibits an educational agency from requesting access to an additional data line under the program for the purpose of providing a political subdivision with access to excess bandwidth and from providing access to a data line under the program to a private business entity.

Current law directs the TEACH board to award educational technology training and technical assistance grants, on a competitive basis, to CESAs and to consortia consisting of two or more school districts or CESAs, or of one or more school districts or CESAs and one or more public library boards. This bill requires that at least one of these grants be awarded annually to an applicant located in the territory of each CESA. The bill also directs the TEACH board, beginning in the 2000–01 fiscal year, to award at least one grant in each fiscal year to an educational organization or consortium of educational organizations for the development and implementation of a foreign language instruction program in a public school in grades kindergarten to six.

Under current law, the Wisconsin Advanced Telecommunications Foundation provides funding for certain advanced telecommunications technology application projects and for efforts to educate telecommunications users about advanced telecommunications services. This bill allows the TEACH board to contract with the foundation to provide administrative services to the foundation.

Under current law, the educational approval board (EAB), which is attached to the higher educational aids board (HEAB), approves and supervises education and training of veterans under certain programs under federal law. EAB also regulates certain schools, including certain proprietary schools, and the solicitation of students by such schools.

This bill eliminates EAB and transfers its functions regarding veterans' education and training to the department of veterans affairs. The bill transfers all of the other functions of EAB to HEAB. The bill creates an educational approval council to advise HEAB in carrying out its duties.

Currently, under the Wisconsin higher education grant program, HEAB awards grants to postsecondary resident students enrolled at least halftime in accredited higher education institutions in this state. Students at tribal colleges are not eligible for grants under the program. HEAB is required to promulgate rules establishing policies and procedures for determining dependent and independent student status and calculating expected parental and student contributions under the program. Current law specifies a method for HEAB to award these grants to dependent students. HEAB also administers the tuition grant program for students enrolled at accredited, nonprofit, post–high school educational institutions and

tribal colleges. In addition, HEAB administers an Indian assistance grant program to assist those Indian students who are residents of this state to receive a higher education. Grants under the Indian assistance grant program are based on financial need. One–half of each such grant is paid by the state with general purpose revenue; the other half is contributed by Indian tribes or bands.

Under this bill, students at tribal colleges are eligible for grants under the Wisconsin higher education grant program, but not for grants under the tuition grant program. The bill appropriates money derived from the Indian gaming receipts to pay for the grants awarded to tribal college students under the Wisconsin higher education grant program and to pay the state's share of each grant under the Indian assistance grant program. In addition, the bill eliminates the requirement for HEAB to promulgate rules regarding student status and expected contributions under the Wisconsin higher education grant program, as well as the method specified for awarding grants to dependent students. The bill requires instead that HEAB award grants under the Wisconsin higher education program based on a formula that accounts for expected parental and student contributions.

Currently, HEAB administers the academic excellence higher education scholarship program that awards scholarships, for up to four years of study, to certain students enrolled at participating institutions of higher education in this state who had the highest grade point averages in their high schools. This bill specifies that this program and its scholarship recipients must be referred to as the governor's scholarship program and governor's scholars, respectively, in all printed material disseminated or otherwise distributed by HEAB.

The state currently appropriates money to the state historical society from the conservation fund for interpretive programming at the Northern Great Lakes Center. This bill designates the Northern Great Lakes Center as a historic site. The bill appropriates money derived from the Indian gaming receipts for the operation of the Northern Great Lakes Center historic site. The appropriation from the conservation fund is not eliminated.

space → The state currently appropriates general purpose revenue to the arts board to award grants to individuals and groups concerned with the arts and to contract with individuals, organizations, units of government and institutions for services furthering the development of the arts and the humanities. This bill appropriates money derived from the Indian gaming receipts for such grants awarded to, and such contracts entered into with, American Indian individuals, groups, organizations, tribal governments and institutions.

This bill appropriates money to the Medical College of Wisconsin for the study and prevention of tobacco–related illnesses.

EMINENT DOMAIN

Under current law, any municipality, board, commission, public officer or corporation that is authorized to acquire property by condemnation and that

acquires property either by purchase or by condemnation, and any entity that carries out a program or project with public financial assistance that causes any person to move or to move his or her personal property, must provide relocation benefits to persons displaced by the program or project. Relocation benefits include moving expenses, replacement housing payments and business or farm replacement payments.

This bill eliminates the authority of the department of natural resources (DNR) to acquire property by condemnation. The bill also provides that if DNR carries out a program or project that causes a person to move or to move his or her personal property, DNR is not required to provide relocation benefits. Under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, however, a person is eligible for relocation benefits specified under the federal law if a state agency (including DNR) carries out a program or project with federal financial assistance.

Finally, the bill authorizes the building commission, at the request of DNR, to acquire property by condemnation for any public purpose. Under current law, the eminent domain authority of the building commission is limited to the acquisition of land that it deems necessary for a site for Madison downtown state office facilities. If the building commission acquires property at DNR's request, whether by condemnation or purchase, it is required to provide relocation benefits.

Under current law, a property owner whose property has been partially condemned for a sewer or transportation facility must pay property taxes in the year of the condemnation for both the condemnee's remaining property and the portion of the property that was awarded to the condemnor. Current law also provides that, in a partial condemnation, the portion of the condemnee's current property tax obligation that applies to the condemnee's remaining property must be subtracted from the award of compensation for the taking. To recover both the condemnor's and the condemnee's prorated share of property taxes, the condemnee must file a claim with the condemnor.

This bill provides that, if the property owner retains a majority interest in the property after the condemnation, the condemnor may choose not to subtract the condemnee's prorated taxes from the award payment and may include the condemnor's prorated taxes in the award payment, thereby eliminating the need for the condemnee to file a claim with the condemnor.

EMPLOYMENT

Current law requires the division of connecting education and work in the department of workforce development (DWD) to administer the youth apprenticeship and school–to–work programs provided by DWD under the federal School–to–Work Opportunities Act of 1994. Under the youth apprenticeship program, DWD must approve occupations and develop curricula for youth apprenticeship programs, and may award training grants to employers that provide on–the–job training and supervision for youth apprentices. Under the school–to–work program, DWD must approve statewide skill standards. Also under

current law, DWD may award grants to nonprofit corporations and public agencies for the provision of career counseling centers that provide youths with career education and job training information and that assist youths in locating apprenticeship and other work experience opportunities that are related to the youth's education.

This bill eliminates the division of connecting education and work in DWD, creates a governor's work–based learning board attached to DWD and transfers to that board the administration of the youth apprenticeship, school–to–work and career counseling center programs. The bill transfers to the technical college system board the responsibility for developing youth apprenticeship curricula, subject to the approval of the governor's work–based learning board. Under the bill, the governor's work–based learning board is also responsible for administering a study grant program created under the bill for high school graduates who meet or exceed a grade point average determined by the governor's work–based learning board and who enroll in a technical college within one year after high school graduation, and a work–based learning program created under the bill for youths who are eligible to receive federal temporary assistance for needy families.

The bill also directs the governor's work–based learning board to award grants to local partnerships for the implementation and coordination of local youth apprenticeship programs. The bill defines a local partnership as one or more school districts, or any combination of one or more school districts, other public agencies, nonprofit organizations, individuals or other persons, who have agreed to be responsible for implementing and coordinating a local youth apprenticeship program. A local partnership that is awarded a grant may use the grant moneys to recruit employers and students to participate in the program; coordinate academic, vocational and occupational learning, school–based and work–based learning and secondary and postsecondary education for participants in the program; assist employers in identifying and training workplace mentors; and perform any other implementation or coordination activity that the governor's work–based learning board may direct or permit the local partnership to perform.

Under current law, the state superintendent of public instruction may award a grant to a nonprofit organization in Milwaukee County that is providing an innovative school–to–work program for children at risk (children who are behind their age group in the number of high school credits attained or in basic skill levels and who are dropouts, habitual truants, parents or adjudicated delinquents) to assist those children in acquiring employability skills and occupation–specific competencies before leaving high school. This bill transfers to the governor's work–based learning board the responsibility for awarding that grant.

Under current law, the Wisconsin employment relations commission (WERC) must collect fees from parties who request WERC services relating to labor disputes involving fact–finding, mediation or arbitration. This bill requires that WERC collect a fee from any party who requests that WERC assemble a panel of individuals

who are not members or employes of WERC to act as an arbitrator to resolve a dispute involving the interpretation or application of a collective bargaining agreement.

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Requirement to clean up hazardous substance spills

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Courts have held that a person possesses or controls any hazardous substance that is present on property that the person owns. Current law generally exempts a local governmental unit (a city, village, town, county, redevelopment authority and housing authority) from these clean–up requirements with respect to hazardous substance discharges on land acquired in specified ways, such as through tax delinquency proceedings or condemnation.

This bill requires local governmental units to agree to provide access to land that is subject to the exemption for the purpose of letting someone else conduct a cleanup of the discharge. The bill also expands the local governmental exemption from the clean–up requirements in a number of ways:

1. The bill makes community development authorities eligible for the exemption.

2. Under current law, the local governmental unit exemption from clean–up requirements is not available if the discharge is from an underground petroleum storage tank. This bill eliminates that limitation.

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3. The bill applies the exemption to land acquired with funds from this state's stewardship program, land acquired through escheat and land acquired from another local governmental unit that is entitled to the exemption. Land is acquired through escheat when the owner dies without a will that disposes of the land and without any heir.

4. The bill exempts a local governmental unit from the requirement to clean up a hazardous substance that has migrated from a property acquired in one of the specified ways to another property.

The bill also exempts a local governmental unit that has acquired property in one of the specified ways from certain requirements relating to hazardous waste if the hazardous waste is cleaned up, DNR approves the cleanup and other conditions are satisfied.

Under current law, a lender who acquires land through enforcement of a security interest is not liable for a discharge of a hazardous substance on that land if certain requirements are satisfied. This bill requires a lender to provide access to the land on which the discharge occurred for the purpose of letting someone else conduct a cleanup of the hazardous substance. Under current law, the

lender–liability exemption is not available if the discharge is from an underground petroleum storage tank. This bill makes the lender–liability exemption available if the discharge is from an underground petroleum storage tank.

Exemption from clean–up requirement for voluntary parties

Under current law, any person, except for a person who intentionally or recklessly caused the original discharge of a hazardous substance on a property, is called a voluntary party. A voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted and approved by the department of natural resources (DNR), the property is cleaned up, DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge and the voluntary party maintains and monitors the property as required by DNR. This exemption applies even if later changes to the law impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

Under this bill, any person, including a person who intentionally or recklessly caused the discharge of a hazardous substance, is eligible for the voluntary party exemption under the conditions described above. The bill also authorizes DNR to require a voluntary party to obtain insurance to cover the cost of a cleanup in case the initial cleanup fails.

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This bill specifies that the voluntary party exemption applies only with respect to hazardous substances released on the property before DNR approves the environmental investigation of the property.

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Under this bill, in order to qualify for the voluntary party exemption, both the voluntary party's property and any other property affected by a discharge originating from that property must be cleaned up. Once DNR approves the cleanup, the voluntary party is exempt from further clean–up requirements on both the voluntary party's own property and any other property affected by a discharge originating from that property.

Under current law, a person is exempt from the requirements to restore the environment and minimize the effects of the discharge of a hazardous substance on the environment with respect to the existence of a hazardous substance in groundwater on property possessed or controlled by the person if the discharge originated from a source off of the property, the person agrees to allow access to the property so that someone else can conduct a cleanup and the person agrees to any other condition necessary to ensure that an adequate cleanup can be conducted.

Under this bill, for a property affected by an off–site discharge that has contaminated the groundwater and by discharges of other hazardous substances, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharges, and from the requirements of

other laws relating to hazardous substances, if: 1) an environmental investigation of the property is conducted and approved by DNR; 2) the property is cleaned up, except with respect to the discharge that originated off–site; 3) DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, except with respect to the discharge that originated off–site; 4) DNR determines in writing that the voluntary party qualifies for the off–site exemption; and 5) the voluntary party maintains and monitors the property as required by DNR.

Currently, a person may be allowed to use natural attenuation to clean up a hazardous substance in groundwater if DNR determines that natural attenuation will bring the groundwater into compliance with groundwater standards within a reasonable period. "Natural attenuation" means the reduction in the amount and concentration of a substance in groundwater that occurs because of natural processes.

Under this bill, if groundwater on a property is contaminated by a hazardous substance in a concentration that exceeds a groundwater standard and DNR determines that natural attenuation will restore groundwater quality, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharges, and from the requirements of other laws relating to hazardous substances, if: 1) an environmental investigation of the property is conducted and approved by DNR; 2) the property is cleaned up, except with respect to the substance for which DNR approves natural attenuation; 3) DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, except with respect to the substance for which DNR approves natural attenuation; 4) the voluntary party maintains and monitors the property as required by DNR; and 5) if required by DNR, the voluntary party obtains insurance to cover the cost of a cleanup in case natural attenuation fails.

Under this bill, a voluntary party is exempt from the requirements to clean up any hazardous substance discharge on a property that is discovered after two environmental investigations have been conducted and approved by DNR with respect to the property if the voluntary party has obtained insurance to cover the clean–up costs.

Petroleum storage remedial action

Under current law, the department of commerce administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA.

This bill authorizes the department of commerce to issue revenue obligations, to be paid from revenues deposited in the petroleum inspection fund, to fund the payment of claims under the PECFA program. Revenue obligations issued under this bill may not exceed $450,000,000 in principal amount. *See* **STATE GOVERNMENT, STATE FINANCE.**

Under current law, the department of revenue (DOR) collects a petroleum inspection fee of three cents per gallon on petroleum products that are received for sale in this state. The fee is deposited in the petroleum inspection fund and is used to fund PECFA as well as various other programs.

This bill requires the department of commerce to change the amount of the petroleum inspection fee under specified conditions. If the amount of unpaid PECFA claims, as of June 30 of an odd–numbered year, exceeds $10,000,000, the department must increase the fee, effective the following April 1, as necessary to increase annual revenues by the amount by which unpaid claims exceed $10,000,000. If the balance in the petroleum inspection fund on June 30 of an odd–numbered year exceeds $10,000,000 and no PECFA revenue bonds are outstanding, the department must reduce the fee, effective the following April 1, as necessary to reduce annual revenues by $5,000,000 or the amount by which the balance in the fund exceeds $10,000,000, whichever is greater.

Currently, PECFA reimburses applicants for interest costs incurred in financing a cleanup, but that reimbursement is limited to interest at 1% over the prime rate. Under this bill, PECFA does not reimburse interest costs incurred by an applicant in financing a cleanup if the applicant has annual gross revenues in excess of $20,000,000. For other applicants, the PECFA interest reimbursement is limited to interest at 5%. The limits on interest reimbursements apply to interest incurred after October 31, 1999, on claims filed after October 31, 1999.

Under current law, DNR generally may order a responsible person to conduct a cleanup of a hazardous substance that has been discharged into the environment and may oversee the cleanup. However, under current law, the department of commerce may order and oversee cleanups of certain discharges from petroleum product storage tanks. The department of commerce has authority over cleanups if the site of the discharge is classified as low or medium priority based on the threat that the discharge poses to public health, safety and welfare and to the environment and if the site is not contaminated by nonpetroleum hazardous substances. Current law requires DNR and the department of commerce to enter into a memorandum of understanding that establishes procedures and standards for determining whether a site is high, medium or low priority. Under this state's groundwater law, DNR and the department of health and family services set enforcement standards. An enforcement standard represents a concentration of a substance in groundwater.

This bill requires the department of commerce to establish the standards for categorizing sites of petroleum product discharges by rule, rather than by memorandum of understanding. The bill requires the department of commerce and DNR to attempt to agree on the standards. The bill prohibits the departments from providing, in those standards, that all sites at which a groundwater enforcement standard has been exceeded are high priority. The bill also requires the departments to design the standards to classify no more than 50% of sites as high priority. If the departments cannot agree on the standards, the secretary of administration must resolve the disagreement.

Under PECFA, the owner of a petroleum product storage tank may receive an award for the amount by which the cost of the cleanup exceeds a deductible amount, up to a specified maximum. The current maximum for underground tanks varies from $100,000 for small farm tanks to $1,000,000 for tanks located at a facility at which petroleum is stored for resale and tanks that handle an average of more than 10,000 gallons of petroleum per month.

This bill changes the maximum PECFA award for any underground petroleum product storage tank to $100,000 if the site of the discharge from the tank is classified as medium priority or low priority under the classification system promulgated by rule by the department of commerce. The change in the maximum PECFA award applies to PECFA claims for which remedial action plans are approved after November 30, 1999.

Currently, the PECFA deductible for underground tanks is generally $2,500 plus 5% of eligible costs, but not more than $7,500, except that the deductible for heating oil tanks owned by school districts and technical college districts is 25% of eligible costs.

This bill changes the PECFA deductible amount for certain underground petroleum product storage tanks. Under this bill, the deductible for an underground petroleum product storage tank that is located at a facility at which petroleum is stored for resale or an underground petroleum product storage tank that handles an annual average of more than 10,000 gallons of petroleum per month is $10,000, plus $2,500 if the eligible costs exceed $50,000, plus $2,500 more if eligible costs exceed $80,000, plus $10,000 more for each whole $100,000 by which eligible costs exceed $150,000, except that the department of commerce may, by rule, exempt a class of owners and operators from this higher deductible.

The bill also changes the PECFA deductible amount for aboveground storage tanks located at terminals from $15,000 plus 5% of the amount by which eligible costs exceed $200,000 to $15,000 plus 15% of the amount by which eligible costs exceed $200,000. A terminal is a facility that is connected to a petroleum pipeline.

This bill authorizes the department of commerce to promulgate rules for assigning award priorities to cleanups under PECFA, except for cleanups of discharges from home heating oil tanks, small farm tanks and heating oil tanks owned by school districts. If the department promulgates the rules, it must pay PECFA awards, for cleanups that begin after the rules take effect, in order of the award priorities under the rules. The bill requires the department to inform the owner or operator of a petroleum product storage tank of the date on which it is appropriate to begin a cleanup, based on when the department estimates funding will be available for an award for the cleanup. The bill authorizes an owner or operator to delay beginning a cleanup until the date that the department determines it is appropriate to begin the cleanup. The bill also authorizes the department to deny PECFA reimbursement for interest costs if an owner or operator begins a cleanup before the appropriate beginning date as determined by the department.

This bill authorizes the department of commerce to require a person to pay a fee as a condition of submitting a bid to provide a service for a cleanup under PECFA. If the department of commerce imposes a fee, the department may purchase, or provide funding for the purchase of, insurance to cover the amount by which the costs of conducting a cleanup exceed the amount bid to conduct the cleanup.

This bill requires the department of commerce and DNR to report information every six months about petroleum product cleanups that are in progress.

Dry cleaner environmental response program

Under current law, DNR administers the dry cleaner environmental response program, under which owners and operators of dry cleaning facilities are reimbursed a portion of the costs incurred in cleaning up a discharge of dry cleaning solvent. This program is funded, in part, by dry cleaning license, solvent and inventory fees that are paid by owners and operators of dry cleaning facilities. As a condition of receiving reimbursement, owners and operators of closed dry cleaning facilities must pay annually for 30 years the average yearly dry cleaning license fee and an amount equal to the total amount collected as annual dry cleaning solvent fees divided by the number of operating dry cleaning facilities for that year. These required fees are in addition to the deductible owners and operators must pay before receiving a reimbursement.

This bill eliminates the requirement that operators of closed dry cleaning facilities pay annual fees for 30 years. Instead, the bill requires owners of dry cleaning facilities to pay as part of the deductible an amount equal to 30 times the average license fee for the year in which the reimbursement is made and an amount equal to the total collected as solvent fees divided by the number of operating dry cleaning facilities for the year. This bill also increases the deductible for closed facilities when eligible costs exceed $200,000.

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Currently, Financing costs are reimbursable costs under the dry cleaner environmental response program. This bill excludes financing costs from reimbursable costs under the program.

Under current law, the first priority for reimbursement under the dry cleaner environmental response program is reimbursement for immediate action activities (activities taken within a short time after a discharge occurs or after a discharge is discovered). After reimbursements for immediate action activities, DNR is required to give highest priority to paying reimbursements for eligible costs incurred before October 14, 1997.

spelling

This bill requires DNR each year, after paying reimbursemnts for immediate action activities, to make a specified portion of the funds available to pay reimbursements for eligible costs incurred before October 14, 1997, and to use the rest of the funds to pay reimbursements for costs incurred on or after October 14, 1997.

This bill requires applicants, under the dry cleaner environmental response program, to notify DNR of insurance claims made for the costs of cleanup of a dry cleaner solvent spill and to disclose the amount of insurance proceeds received. The bill also requires applicants to notify DNR if they intend to file suit against an insurance company to recover clean–up costs and allows DNR to join a private suit filed by an applicant against an insurance company for the purpose of recovering clean–up costs.

Under the dry cleaner environmental response program, the owners of certain dry cleaning facilities are eligible for reimbursement for the costs of preliminary site screening and interim remedial equipment to begin the cleanup of dry cleaning discharges before the completion of full site investigations and cleanup plans. The reimbursement for preliminary site screening and interim equipment may not exceed $15,000, of which not more than $2,500 may be for the preliminary site screening.

Under this bill, the reimbursement for preliminary site screening and interim remedial equipment is 50% of the eligible costs, but not more than $20,000, of which not more than $3,000 may be for the cost of the preliminary site screening.

The dry cleaner environmental response program is currently funded from the dry cleaner environmental response fund, a segregated fund. Under current law, DNR is authorized under certain circumstances to fund cleanups of hazardous substance discharges from the environmental fund, another segregated fund.

Under this bill, if DNR funds a cleanup of a discharge of dry cleaning solvent from the environmental fund, DNR must transfer from the dry cleaner environmental response fund to the environmental fund an amount equal to the amount expended from the environmental fund for the cleanup. DNR must make the transfer when it determines that sufficient funds are available.

Other hazardous substances and environmental cleanup

This bill authorizes a local governmental unit to recover costs it incurs in cleaning up a property on which a hazardous substance has been discharged if the local governmental unit acquired the property in one of several specified ways, including through tax delinquency proceedings or condemnation. The local governmental unit may recover the costs from a person who possessed or controlled the hazardous substance at the time that the local governmental unit acquired the property or who caused the discharge of the hazardous substance, unless the person is exempt from the requirement to clean up the property under the hazardous substances spills law.

This bill creates a brownfields site assessment grant program to be administered by DNR. Under the program, cities, villages, towns, counties, redevelopment authorities, community development authorities and housing authorities may apply for a grant to conduct preliminary clean–up activities at brownfield sites. The grants specifically cover the costs of investigating

environmental contamination, demolishing structures and removing abandoned containers and asbestos. Applicants who receive a grant under the program must contribute matching funds equal to 20% of the grant and are required to pay back the grant if they receive a loan under the land recycling loan program to conduct the same clean–up activities.

Currently, under the land recycling loan program, this state provides loans to cities, villages, towns and counties (political subdivisions) for projects to remedy environmental contamination at sites owned by political subdivisions where the environmental contamination has affected, or threatens to affect, groundwater or surface water. The loans are provided at subsidized interest rates.

This bill provides that recipients of loans under the land recycling loan program are not required to pay any interest. The bill also makes redevelopment authorities and housing authorities eligible for loans under the program.

The budget act for each fiscal biennium establishes the present value of the subsidies that may be provided under the land recycling loan program during that fiscal biennium. This bill sets the present value of the land recycling loan program subsidies that may be provided during the 1999–2001 fiscal biennium at $9,400,000.

Under current law, the department of commerce regulates tanks that store flammable and combustible liquids. This bill requires the department of commerce also to regulate tanks that store liquids that are considered hazardous substances under the federal Superfund Act. Under current law, the department of commerce collects a $100 groundwater fee for plan review and approval for tanks that store flammable and combustible liquids and that have a capacity of 1,000 gallons or more. Under this bill, the groundwater fee also applies to plan review of tanks that store liquids that are considered hazardous substances under the federal Superfund Act and that have a capacity of 1,000 gallons or more.

WATER QUALITY

Under the clean water fund program, this state currently provides financial assistance for projects for controlling water pollution, including sewage treatment plants. One form of financial assistance provided is a loan at a subsidized interest rate. The budget act for each fiscal biennium establishes the present value of the subsidies that may be provided under the clean water fund program during that fiscal biennium. This bill sets the present value of the clean water fund program subsidies that may be provided during the 1999–2001 fiscal biennium at $87,400,000.

Currently, under the safe drinking water loan program, this state provides loans to local governmental units for projects for the construction or modification of public water systems. The loans are provided at subsidized interest rates. The budget act for each fiscal biennium establishes the present value of the subsidies that may be provided under the safe drinking water loan program during that fiscal

biennium. This bill sets the present value of the safe drinking water loan program subsidies that may be provided during the 1999–2001 fiscal biennium at $5,200,000.

Under current law, the state is authorized to contract public debt in an amount not to exceed $12,130,000 to fund the safe drinking water loan program. This bill increases that amount to an amount not to exceed $16,000,000.

One form of assistance that the clean water fund program, the safe drinking water program and the land recycling loan program provide is a loan at a subsidized interest rate. Another form of assistance is a payment to the board of commissioners of public lands to reduce interest payments on a loan from the board for a project that is eligible for assistance under one of the programs.

This bill provides that a payment to the board of commissioners of public lands under the clean water fund program, the safe drinking water loan program or the land recycling loan program may not exceed the amount of subsidy necessary to provide the loan directly under the clean water fund program, the safe drinking water loan program or the land recycling loan program.

Under current law, DNR, in conjunction with the department of agriculture, trade and consumer protection (DATCP), the land and water conservation board (LWCB) and local governmental units, administers a program to provide financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources. Current law authorizes the issuance of general obligation bonds as one source of funding for the financial assistance under the nonpoint source program. This bill increases the bonding authority for the nonpoint source program from $34,363,600 to $48,763,600.

space → Current law authorizes DNR to provide cost–sharing grants for projects to assist agricultural facilities to comply with nonpoint source water pollution control requirements established by DNR and DATCP. These cost–sharing grants are currently funded with proceeds of general obligation bonds. This bill increases the bonding authority for the cost–sharing grants from $2,000,000 to $4,000,000.

Under current law, the nonpoint source program is funded with general purpose state revenues, segregated revenues from the environmental fund and proceeds of state bonds. This bill provides additional funds for financial assistance under the nonpoint source program from moneys paid to this state under Indian gaming compacts. ~~This~~ The bill also provides funds to be paid to the Oneida Nation under the nonpoint source program from moneys paid to this state under Indian gaming compacts.

Under current law, persons who discharge wastewater into the waters of this state are required to pay an annual wastewater discharge fee to DNR. DNR is required to structure the fee so that municipalities that are subject to the fee pay 50% of the total charged and other persons that are subject to the fee pay the other 50%.

Currently, DNR may not charge total fees that exceed $7,450,000. This bill changes the cap on the wastewater discharge fee to $7,925,000.

Under current law, DNR and the department of health and family services establish standards for the concentration of contaminants in groundwater. When the groundwater standards are exceeded, action must be taken under this state's groundwater law. This bill authorizes DNR to charge a fee for placing information concerning a property on which a groundwater standard is exceeded into a database.

AIR QUALITY

Under current law, the owner or operator of a stationary source of air pollution who must obtain an air pollution control permit from DNR is required to pay an annual fee to DNR. The fee is a specified amount per ton of certain air pollutants emitted by the stationary source in the preceding year, except that an owner or operator is generally not required to pay the fee for emissions of any pollutant in excess of 4,000 tons per year.

This bill establishes a new facility fee for stationary sources that emit a total of at least five tons of the pollutants on which the current fee is based. The fee ranges from $50 to $20,000, depending on the total amount of those pollutants emitted.

Under current law, generally a person may not begin construction of a stationary source of air pollution without a construction permit issued by DNR. This bill authorizes DNR to issue general construction permits, each of which may cover numerous similar stationary sources of air pollution.

Current law authorizes DNR to establish, by rule, fees for inspecting nonresidential asbestos demolition and renovation projects regulated by DNR. The fees may not exceed $200 per project. This bill raises the limit on fees for inspecting nonresidential asbestos demolition and renovation projects to $210.

space →

Under current law, the department of justice (DOJ) generally is responsible for taking actions in court to enforce environmental laws. This bill authorizes DNR to issue a citation (similar to a traffic ticket) if it determines that a person has violated certain of DNR's rules related to asbestos abatement and management. The bill requires DNR to promulgate rules, which must be approved by DOJ, specifying the violations for which citations may be issued. Under the bill, the same procedures are used for the issuance of a citation and the collection of a forfeiture as are used for hunting and fishing violations.

RECYCLING

Under current law, DNR administers a financial assistance program to assist with costs related to operating recycling programs and for complying with the prohibition on disposing of yard waste in landfills. The amount of a grant under the program is generally the lesser of 66% of eligible net costs or $8 per person served, except that, if the lesser of those two amounts is less than 33% of the eligible expenses, the amount of the grant is 33% of the eligible expenses.

This bill reduces the maximum amount of a grant that may be awarded under this financial assistance program. Under the bill, the amount of a grant is the greater of 66% of eligible net costs or 33% of the eligible expenses, except that the grant may not exceed $8 per person. This change effectively sets a maximum grant amount of $8 per person and makes grants based on 33% of the eligible expenses subject to proration of grants if the sum of grants payable under the program exceeds available funds. The financial assistance program currently expires after 2000. This bill extends the program through 2001.

Current law prohibits the disposal of listed recyclable materials in a landfill. The prohibition does not apply to any city, village, town, county or other governmental unit that is responsible for the region's solid waste management (responsible unit) and that operates an effective recycling program. A recycling program is an effective recycling program if it meets specified criteria. In addition to the exception from the disposal prohibition, a responsible unit that administers an effective recycling program is eligible for a state grant to reimburse the responsible unit for some of its costs incurred in operating the effective recycling program. The amount of the grants statewide total roughly $24,000,000 annually.

under current law,

Beginning in 2000, a responsible unit's recycling program is an effective recycling program only if the responsible unit has in place a system of volume–based solid waste fees to generate revenue equal to the responsible unit's costs for solid waste management other than those reimbursed by the state. This criterion does not apply to any responsible unit that separates for recycling at least 25% by volume or by weight of the solid waste collected within the region by the responsible unit or by any person under contract with the responsible unit, or to any responsible unit that provides solid waste to an operating solid waste treatment facility under a contract that was in effect on January 1, 1993.

This

The bill eliminates the requirement that, to have its recycling program considered an effective recycling program, a responsible unit have in place a system of volume–based solid waste fees to generate revenue equal to the responsible unit's costs for solid waste management other than those reimbursed by the state.

The recycling market development board (board), which is attached to the department of commerce and which will be eliminated on June 30, 2001, has various powers and duties related to recycling, including awarding financial and other assistance to improve the marketing of, and to develop markets for, certain materials recovered from solid waste. The board may contract with other persons to accomplish any of its powers and duties. Funding for the board's contracts comes from the recycling fund. Funding for the financial assistance that the board awards comes from the recycling fund and from repayments of loans made by recipients of financial assistance awarded by the board. This bill eliminates the recycling fund as a funding source for the board's contracts and financial assistance and provides that the funding for both comes solely from repayments of loans made by recipients of financial assistance awarded by the board.

The department of commerce made loans before July 1, 1995, for various purposes related to recycling. Repayments of those loans are deposited in the recycling fund. This bill provides that repayments of those loans are to be used to fund the board's contracts and financial assistance that the board awards.

This bill requires DNR to award grants of $75,000 on September 1, 1999, and $50,000 on July 1, 2000, to the Wheelchair Recycling Project for the purpose of refurbishing used wheelchairs and other mobility devices and returning them to use by persons who otherwise would not have access to needed or appropriate equipment.

OTHER ENVIRONMENT

In 1998, DNR and Winnebago County entered into an agreement under which the county agreed to accept sediments that are dredged from the Fox River and that are contaminated with polychlorinated biphenyls (PCBs) for disposal in the county's landfill.

This bill authorizes DNR to enter into an agreement with Winnebago County under which this state indemnifies the county against any liability or damage resulting from the county's acceptance of PCB–contaminated sediments if the sediments are disposed of in a manner approved by DNR. The bill also authorizes DNR to enter into an agreement with the city of Oshkosh under which this state indemnifies the city against any liability or damage resulting from the city accepting PCB–contaminated leachate from the landfill that contains the PCB–contaminated sediments.

Current law provides a process for negotiation and arbitration between a person who wishes to construct or expand a landfill or a hazardous waste facility and a committee representing those affected municipalities and counties that choose to participate in the process. An affected municipality or county is one in which a facility is proposed to be located or one whose boundary is within 1,500 feet of the area in which waste would be treated, stored or disposed of. Other municipalities may participate in the negotiation and arbitration process with the agreement of all parties to the process. Under current law, a town, city or village in which all or part of the facility is proposed to be located may appoint four members to a committee or the number of members appointed by the county and other affected municipalities plus two, whichever is greater.

Under this bill, a town, city or village in which all or part of a landfill or a hazardous waste facility is proposed to be located may appoint four members to a committee or the number of members appointed by the county, other affected municipalities and any municipalities added by agreement of the parties plus two, whichever is greater.

Under current law, DNR may require tests related to programs administered by DNR to be conducted by laboratories certified or registered by DNR or DATCP or certified or registered by another state or a federal agency that recognizes laboratory certification by DNR and that uses standards equivalent to this state's standards.

This bill authorizes DNR to apply to the federal environmental protection agency to be approved to accredit laboratories under a national environmental laboratory accreditation program. If DNR is approved to accredit laboratories under the national program, an accredited laboratory may conduct tests that currently must be conducted by a certified or registered laboratory, this state must accept test results from laboratories accredited by other accrediting authorities and other accrediting authorities must accept test results from laboratories accredited by DNR.

Under current law, DNR, the department of commerce and the board of regents of the University of Wisconsin (UW) System are required to promote hazardous pollution prevention, which means changes in processes or raw materials that reduce or eliminate the use or production of hazardous substances, toxic pollutants and hazardous waste. This bill requires DNR, the department of commerce and the board of regents of the UW System to promote pollution prevention, which means an action that prevents waste from being created, reduces the amount of waste that is created or changes the nature of waste being created in a way that reduces the hazards to public health or the environment posed by the waste.

GAMBLING

Under current law, the compensation paid to a retailer who sells lottery tickets is 5.5% of the retail price of the lottery tickets. In addition, under current law, the compensation paid to a retailer who sells scratch–off or instant games is 6.25% of the retail price of scratch–off or instant games. This bill authorizes the department of revenue to establish, by rule, a program to provide for additional compensation to be paid to retailers who meet certain performance goals. Under this program, the total compensation provided to retailers who meet the performance goals may not exceed 1.0% of gross lottery revenues.

Under current law, the department of health and family services may award grants to individuals or organizations in the private sector to conduct compulsive gambling awareness campaigns. These grants are funded from the lottery fund, from revenues generated by pari–mutuel wagering and from moneys paid to the state under Indian gaming compacts. This bill provides that the grants must be funded entirely from moneys paid to the state under Indian gaming compacts.

HEALTH AND HUMAN SERVICES

LONG–TERM CARE; FAMILY CARE

Current law

Currently, home and community–based long–term care is provided to persons who are elderly, physically or developmentally disabled, chronically mentally ill or chemically dependent as a benefit under one or more programs administered by the department of health and family services (DHFS). These programs are funded by federal, state or, in some instances, county moneys, and each program has

individualized eligibility criteria and benefit restrictions. For elderly and disabled persons, these programs include medical assistance (MA), the long–term support community options program (COP), three community integration programs (CIPs) and community aids. MA is a comprehensive jointly funded federal–state health program for persons with low income and few assets. COP provides assessments of functionality and home and community–based care to, among others, elderly and disabled persons as an alternative to institutionalized care; one part of COP is funded by state moneys and the other part is funded under a joint federal–state program under a waiver of federal medicaid laws. Under other joint federal–state programs under waivers of federal medicaid laws, CIPs provide home and community–based services and continuity of care for persons relocated from institutions, including state centers for the developmentally disabled, and persons who meet requirements for MA reimbursement in nursing homes.

Currently, under a pilot project, DHFS contracts with a public or private entity to serve as a clearinghouse of information for individuals who are interested in home or community–based long–term support services or institutional long–term care services and to perform assessments to determine an individual's functional abilities, disabilities, personal preferences and need for home or community–based services or institutional services. Under a second pilot project, DHFS may contract with counties or federally recognized American Indian tribes or bands to demonstrate the ability of counties or tribes or bands to manage all long–term care programs under a long–term care management organization.

Currently, nursing homes are prohibited from admitting patients until a physician has completed a plan of care and the patient has been assessed under COP or the long–term care pilot project or has waived the assessment.

Creation of family care benefit, resource centers and care management organizations

This bill establishes a program of financial assistance for long–term care and support items, called a family care benefit, for persons who are eligible and are enrolled in a care management organization, an entity whose attributes are established in this bill. The family care benefit is funded by general purpose revenues appropriated for MA, COP and community aids. DHFS must request from the federal secretary of health and human services any waivers of federal medicaid laws necessary to permit the use of federal moneys to provide the family care benefit to recipients of MA; however, regardless of whether a waiver is approved, DHFS may implement the family care benefit. Persons are eligible for, but not necessarily entitled to, the family care benefit if they are at least 18 years of age, do not have a primary disabling condition of mental illness, substance abuse or developmental disability and meet certain functional and financial eligibility criteria. A person is entitled to the family care benefit and may enroll in a care management organization if he or she is financially eligible, meets cost–sharing requirements and meets any of several functional eligibility requirements or if he or she has a primary disabling condition of developmental disability and was a resident of a county or member of a tribe or band that operated a care management organization under a pilot project. Divestment prohibitions, prohibitions on treatment of certain trusts, provisions on

protection of income and resources of a couple for maintenance of a spouse in the community, and estate recovery provisions, all of which correspond to similar prohibitions and provisions under MA, apply to enrollees. A client may contest denial of eligibility, the determination of cost sharing, denial of entitlement, failure to provide timely services and support items in the plan of care, reduction of services or support items, development of an unacceptable plan of care and termination of the family care benefit, by filing a written request for a hearing within 45 days after receipt of notice of the contested matter.

The bill establishes requirements for a resource center, which, among other things, must provide information and referral services, determine functional and financial eligibility for the family care benefit, assist persons to enroll in a care management organization and determine eligibility for certain other benefits, including MA. Within six months after the family care benefit is available to all eligible persons in the area of the resource center, the resource center must provide information about its services to all older persons and persons with physical disabilities who reside in nursing homes, community–based residential facilities, adult family homes and residential care apartment complexes in the area of the resource center. A resource center must have a governing board that reflects the ethnic and economic diversity of the geographic area served by the resource center, and at least one–fourth of the governing board's members must be older persons or persons with physical or developmental disabilities or family members, guardians or other advocates of such persons.

The bill establishes requirements for a care management organization, which must accept the enrollment of persons who are entitled to the family care benefit, as well as the enrollment of persons who are eligible for the family care benefit and for whom funding is available. Under a contract with DHFS, the care management organization must, among other things, conduct a comprehensive assessment for each enrollee, develop a comprehensive care plan for the enrollee and provide or contract for the provision of necessary services. DHFS may, by contract, require solvency protections for a care management organization. A care management organization must have a governing board that is subject to requirements that are similar to those for the governing board of a resource center. The bill specifically exempts a care management organization from requirements for licensure as a home health agency.

Under the bill, DHFS must prescribe and implement a per person monthly rate structure for costs of the family care benefit. DHFS also must prescribe and enforce performance standards for the operation of resource centers and care management organizations, conduct ongoing evaluations of the system implementing the family care benefit and ensure that independent organizations conduct reviews of the quality of management and service delivery of resource centers and care management organizations.

Family care district

This bill authorizes county boards of supervisors to create, on a single county or multicounty basis, family care districts. Under the bill, a family care district is a separate local unit of government, the primary purpose of which is to operate a

resource center or a care management organization, but not both. The jurisdiction of the family care district is the county or counties of the county board or boards of supervisors who created the district. The family care district's board is appointed by the county board or boards of supervisors and must consist of 15 persons for a single county and, for a multicounty family care district, an additional member for each county in excess of two. Board members must be residents of the family care district's jurisdiction and must satisfy certain additional requirements.

The bill grants to a family care district various local government powers, including the power to adopt and alter an official seal; adopt bylaws and policies and procedures to regulate its affairs; sue and be sued; negotiate and enter into leases and contracts; employ agents, employes or special advisers; and buy, sell or lease property. However, a family care district may not issue bonds or levy a tax or assessment. Under the bill, a family care district must appoint a director, who must manage the family care district's property, business and employes. The family care district must also develop and implement a personnel structure and other employment policies. With respect to the hiring of employes who formerly were county employes to perform the same or substantially similar functions that they previously performed, the family care district must perform certain tasks to ensure that the employes' compensation, benefits, seniority and status in class under county employment are not diminished. If the county has established its own retirement system the county must include family care district employes in participation and applicable benefits.

Numerous laws that apply to special purpose districts and local units of government apply to the family care district, including, among others:

1. The members of the family care district governing board and the director of the family care district are subject to the code of ethics for local government officials.

2. The family care district is exempt from the sales and use taxes.

3. The family care district is subject to public employe occupational safety and health laws.

4. The family care district is governed by unemployment compensation laws.

5. The family care district may participate in the local governmental property insurance fund.

6. The family care district is governed by municipal administrative procedures concerning constitutionally protected rights.

7. Persons attempting to sue the family care district are subject to limitations on actions that may be brought against it and limitations as to the filing of the notice of the injury and recoverable damages.

The bill also provides that a family care district:

1. Must adhere to the open records laws, except in certain circumstances.

2. Must adhere to the open meetings laws.

3. Is subject to auditing by the legislative audit bureau and review of its performance by the joint legislative audit committee.

4. Is an employer for all purposes of the municipal employment relations laws; as such, employes of the district may organize and seek to establish all terms of wages, hours and conditions of employment through collective bargaining.

5. Is subject to prohibitions on public funding for abortions and for abortion–related activities.

6. May participate in the local government pooled–investment fund.

7. Is exempt from local property tax and income tax.

8. Is subject to laws regulating buildings and safety.

9. Is governed by state minimum wage and hour and family and medical leave laws and is subject to worker's compensation laws.

10. May participate in programs of state retirement, health and long–term care benefits, disability benefits and survivor benefits, deferred compensation plans, employe–funded reimbursement accounts and health insurance premium credits and be included as a coverage group under social security.

11. Is an employer for the purposes of coverage for group and individual health benefits and for small employer health insurance.

12. Is a municipality for the purposes of laws relating to the publication of legal notices.

Under the bill, obligations and debts of a family care district are not the obligations or debts of the county that created the family care district. A family care district may be dissolved by joint action of the family care district board and the county board or boards of supervisors that created the district, subject to performance of its contractual obligations and approval by the secretary of health and family services. If the family care district was created by more than one county, the county boards of supervisors that created the district must agree on the apportioning of the district's property before dissolution may occur.

Expansion of pilot projects

This bill authorizes DHFS to continue contracting with counties or American Indian tribes or bands under the current pilot projects until July 1, 2001. After that date, DHFS may contract with one or more entities certified as meeting requirements for a resource center and for services of an entity as a care management organization. During the first 24 months in which a county has a contract with DHFS under which the county accepts a per person per month payment for each enrollee in the county's care management organization, the authority of DHFS to contract with another organization to operate a care maintenance organization in that county is restricted.

Under the bill, a county, an American Indian tribe or band, a family care district or an organization may not directly operate both a resource center and a care management organization. If a county board of supervisors and the county executive or county administrator apply to DHFS for a contract to operate a resource center, the county board may create a family care district to apply to DHFS for a contract to operate a care management organization; if the county board and the county executive or administrator apply for a contract to operate a care management organization, the county board may create a family care district to apply to DHFS for a contract to operate a resource center. If the governing body of an American Indian tribe or band elects to apply for a contract to operate a resource center, the tribe or band members may form a separate corporation to apply for a contract to operate a care management organization; if the governing body elects to apply for a

contract to operate a care management organization, the tribe or band members may form a separate corporation to apply for a contract to operate a resource center. A county or family care district may apply jointly with a tribe or band or tribal or band corporation for a contract to operate a care management organization or resource center.

The bill authorizes a county department of social services, human services, developmental disabilities services or community programs or an aging unit authorized by the applicable county board of supervisors to apply to DHFS to operate a resource center or a care management organization. The bill also authorizes the secretary of health and family services, in order to facilitate the transition to the family care benefit system, to grant a county limited waivers to certain COP and CIP statutes and rules promulgated under those statutes.

Requirements of care facilities

This bill requires the secretary of health and family services to certify to each county, nursing home, community–based residential facility, adult family home and residential care apartment complex the date on which a resource center that serves the area of the county, home, facility or complex is first available to provide a functional and financial screen to specific groups of eligible individuals or for specified facilities. Each affected nursing home, community–based residential facility, adult family home and residential care apartment complex must inform prospective residents of the facility about the services of the resource center, the family care benefit and the availability of a functional and financial screen to determine eligibility. Also, these facilities and hospitals must refer to the resource center any person who seeks admission and who is aged at least 65 years or has a physical disability, unless the person has received a screen for functional eligibility within the previous six months, is entering the facility only for respite care or is an enrollee of a care management organization. Failure to comply with these requirements subjects the facility to an administrative forfeiture. Current prohibitions on the admittance to nursing homes of persons without a COP or other assessment do not apply to persons for whom the secretary of health and family services has certified that a resource center is available.

Council on long–term care and board on aging and long–term care

This bill creates in DHFS a 15–member council on long–term care that terminates on July 1, 2001. The council must assist DHFS in developing policy related to long–term care issues. The council also must review and make recommendations to DHFS concerning the DHFS standard contract provisions for resource centers and care management organizations, the family care benefit and other matters, and must monitor patterns of complaints, persons on waiting lists and patterns of enrollments and disenrollments.

The bill makes several changes to the membership of the board on aging and long–term care and requires the board to contract with organizations to provide advocacy services, including negotiation, mediation and assistance in administrative hearings or judicial proceedings, to potential or actual recipients of the family care benefit or their families or guardians.