

\*\*\* ANALYSIS FROM -0795/2 \*\*\*

**OTHER CRIMINAL LAW**

***Crimes related to computers***

Under current law no person may willfully, knowingly, and without authorization modify, destroy, copy, take possession of, or access computer data, computer programs, or supporting documentation of a computer system. A person who violates this prohibition may generally be fined not more than \$10,000, imprisoned for not more than nine months, or both. If the person committed the violation to defraud another or obtain the property of another, a court may impose on the person a bifurcated sentence not to exceed five years. If the violation causes more than \$2,500 of damage or if it causes an interruption or impairment of governmental operations, public communication, transportation, or a supply of water, gas, or other public service, a court may impose a bifurcated sentence not to exceed ten years. Finally, if the violation creates a substantial and unreasonable risk of death or great bodily harm to another, a court may impose a bifurcated sentence not to exceed 15 years.

also This bill prohibits intentionally interrupting computer service by sending to a computer, computer program, computer system, or computer network a message that is too complex, or multiple messages that are too voluminous, for the computer, computer program, computer system, or computer network to process. Penalties for violating this prohibition are the same as those applicable to the computer crime described above.

The bill also increases the penalties for violations of these prohibitions that occur under specified circumstances. If the violation results in more than \$1,000 but not more than \$2,500 in damage, the court may impose a bifurcated sentence not to exceed five years. If the violation causes more than \$2,500 in damage, the court may impose a bifurcated sentence not to exceed 15 years. If the violation results in an interruption or impairment of government operations, public communication, transportation, or a supply of water, gas, or other public service, the court may impose a bifurcated sentence not to exceed 15 years.

either of In addition, the bill authorizes courts to enhance the penalties for violations of the prohibitions described above if the person committing the violation accesses another person's computer to commit the violation with the intent to make it less likely that the offender will be identified with the crime. For a misdemeanor, the court may increase the fine by up to \$1,000 and increase the maximum term of

imprisonment to a total of 12 months. For a felony, the court may increase the fine by up to \$2,500 and increase the length of the bifurcated sentence by up to two years.

**Crimes related to images depicting nudity**

Current law prohibits producing, possessing, or distributing a photograph, motion picture, videotape, or other visual representation or reproduction that depicts nudity if the person depicted nude did not consent to the representation or reproduction and if the person who makes, possesses, or distributes the representation or reproduction knows or should know that the person depicted nude did not consent to the nude depiction.

(nw 9) The Wisconsin supreme court has found this prohibition unconstitutional because it prohibits all depictions of nudity made without consent, including artistic, political, or newsworthy depictions that are protected by the First Amendment. *State v. Stevenson*, 236 Wis. 2d 86 (2000). STET

This bill narrows the scope of the prohibition against making an original representation that depicts nudity by requiring that, at the time the representation is made, the subject of the depiction be both nude and in a place and circumstance in which he or she can reasonably expect privacy. Reproducing such an original without the subject's consent is also prohibited if the reproducer knows or should know that the original was unlawfully made. The bill treats the prohibitions against possessing and distributing representations depicting nudity similarly to the prohibition against making reproductions.

**Crimes relating to providing and describing harmful material to children**

Current law prohibits providing and describing harmful material to a child and ~~the~~ possessing harmful material with intent to transfer the harmful material to a child. Harmful material includes nudity, sexually explicit images, and images of torture and brutality. Current law does not require that the state prove that the defendant knows or should know that the recipient of the materials is a child. The law, however, establishes an affirmative defense under which the defendant may avoid criminal liability by proving that he or she reasonably believed that the recipient was 18 years of age or older.

(nw 4) The Wisconsin supreme court has ruled that the statute that prohibits exposure of a child to harmful materials is unconstitutional in cases in which the defendant does not have face-to-face contact with the recipient. *State v. Weidner*, 235 Wis. 2d 306 (2000). The supreme court based its decision on the chilling effect that the prohibition would have on communication protected by the First Amendment. prohibiting

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This bill makes knowledge of the recipient's status as a child an element of the crime if the defendant does not have a face-to-face contact with the child. The bill does not add the knowledge-of-age element for cases in which the defendant has face-to-face contact with the recipient, maintaining for those cases the affirmative defense requiring the defendant to prove that he or she reasonably believed that the recipient was at least 18 years of age.

**Computer images and current law crimes** ✓

Several criminal laws prohibit activities related to images of nudity, or images and sounds of obscenity or of children engaged in sexually explicit conduct. Those crimes are: 1) making, possessing, reproducing or distributing images of nudity ~~(see Crimes related to images depicting nudity)~~; 2) importing, printing, selling, transferring, exhibiting, or possessing for publication, sale, exhibition, or transfer, obscene material; 3) photographing, filming, videotaping, or making a sound recording of a child engaged in sexually explicit conduct, or enticing a child to go into a secluded place to take a picture ~~or~~ make a sound recording of the child engaged in sexually explicit conduct; 4) exposing a child to harmful images and sounds ~~(see Crimes relating to providing and describing harmful material to children)~~; and 5) producing, performing in, profiting from, importing, possessing, and other activities related to child pornography. These prohibitions do not specifically apply to stored data version of images or sounds. In addition, these prohibitions do not uniformly cover digital or magnetic tape recordings. ↑

The bill expands the prohibitions related to images of nudity, and images or sounds of obscenity or of children engaged in sexually explicit conduct, to include images and sounds recorded in any manner as well as the data that represents an image or a sound.

**Obscene e-mail** ✓

The bill makes it a crime to send an unsolicited e-mail message that contains obscenity or depicts sexually explicit conduct, if the person sending the e-mail message does not label the e-mail message as "Adult advertisement" in the subject line. ~~The penalty for violating the prohibition against obscene e-mail is a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.~~

**\*\*\* ANALYSIS FROM -1719/P1 \*\*\***

**Statute of limitations for sexual assault** ✓

~~Current law provides time limits for commencing the prosecution of most crimes. The state must initiate prosecution within the time limit or it is barred from~~

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prosecuting the offense. Time during which a defendant is either a nonresident of the state or is secretly a resident is not calculated as part of the time limit.

Under current law, the state must prosecute first and second degree sexual assault within six years of the date of the crime. The state must prosecute first and second degree sexual assault of a child, as well as repeated sexual assault of the same child, before the victim reaches the age of 31.

This bill creates an exception to the time limits for prosecuting the crimes of sexual assault, sexual assault of a child, and repeated sexual assault of the same child in certain circumstances if the state has deoxyribonucleic acid (DNA) evidence related to the crime. If the state collects DNA evidence related to the crime before the time for prosecution expires and does not link the DNA evidence to an identified person until after that time expires, the state may initiate prosecution for the crime within one year of making the match.

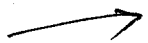
\*\*\* ANALYSIS FROM -0991/P1 \*\*\*

**Club drugs** ✓

Current law places restrictions on manufacturing, distributing, delivering, or possessing with intent to manufacture, distribute, or deliver, many drugs. With certain limited exceptions, this bill prohibits manufacturing, distributing, delivering, or possessing with intent to manufacture, distribute, or deliver, 4-methylthioamphetamine (4-MTA or flatliner) or counterfeit versions of 4-MTA. The bill assigns the same penalties for violating this prohibition as are currently assigned to crimes involving phencyclidine (PCP). The penalties range from a mandatory fine of \$1,000 to \$200,000 and a bifurcated sentence of up to seven years and six months, for a violation involving three grams or less of the drug, to a mandatory fine of \$1,000 to \$500,000 and a bifurcated sentence of not less than ten years nor more than 45 years for a violation involving more than 400 grams of the drug.

The bill also increases the penalties for unlawfully manufacturing, distributing, delivering, and possessing with intent to manufacture, distribute, or deliver, gamma-hydroxybutyric acid (GHB), gamma-butyrolactone (GBL), 3, 4-methylenedioxymethamphetamine (MDMA or ecstasy), 4-bromo-2,5-dimethoxy-beta-phenylethylamine (2-CB or nexus), ketamine, and flunitrazepam to the penalty levels for PCP. In addition, the bill increases the penalties for unlawfully manufacturing, distributing, delivering, and possessing with intent to manufacture, distribute, or deliver, counterfeit versions of PCP, lysergic acid diethylamide (LSD), methamphetamine, GIIB, GBL, ecstasy, nexus, ketamine, and flunitrazepam to the same level as violations involving the genuine drugs.

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**\*\*\* ANALYSIS FROM -0857/1 \*\*\******Theft of rented or leased motor vehicle*** ✓

Under current law, a theft occurs when a person intentionally fails to return rented or leased personal property within ten days after the written rental agreement or lease agreement ends. The penalty for the theft of property worth more than \$2,500 is a fine of not more than \$10,000 or a bifurcated sentence of not more than ten years or both.

(rw #) This bill provides that with respect to a rented or leased motor vehicle a theft occurs when a person intentionally fails to return the rented or leased property at any time after the written rental agreement or lease agreement ends.

**\*\*\* ANALYSIS FROM -1693/7 \*\*\*****EDUCATION** ✓**PRIMARY AND SECONDARY EDUCATION** ✓

This bill requires DPI to designate school districts as school districts with expanded flexibility if their pupils' scores on the fourth, eighth, and tenth grade assessments, the third grade reading test, and the high school graduation examination equaled or exceeded the statewide average scores; their high school graduation rate at least equaled the statewide average high school graduation rate; and their attendance rate at least equaled the statewide average attendance rate.

A school district with expanded flexibility is free from many of the requirements that apply to regular school districts, may create school governance councils to advise principals, and may reassign staff members without regard to seniority. Such a reassignment is a prohibited subject of collective bargaining. In return, a school district with expanded flexibility must, among other things, allocate 85% of all school district revenues for use by principals at their respective schools; ensure that at least 95% of the school district's pupils who are eligible takes the fourth, eighth, and tenth grade assessments and the high school graduation examination; and ensure that each school in the school district prepares an annual plan that includes performance goals for all pupils, for minority group pupils, for low-income pupils, and for teachers.

Finally, DPI must award grants on a competitive basis to school districts with expanded flexibility to help implement school district decentralization plans and to train principals to be effective administrators in a decentralized school district.

**\*\*\* ANALYSIS FROM -0957/4 \*\*\***

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Under current law, school boards may enter into contracts with individuals, groups, businesses, or governmental bodies to establish charter schools, which operate with fewer constraints than traditional public schools. Current law also permits the UW–Milwaukee, the Milwaukee area technical college, and the city of Milwaukee to operate charter schools (Milwaukee charter schools) directly or to contract for the operation of charter schools. These Milwaukee charter schools must be located within the Milwaukee Public Schools (MPS) district and only pupils who reside in the MPS district may attend the charter schools. The operators of the Milwaukee charter schools receive aid for the regular school term based on the number of pupils attending the charter school<sup>s</sup> as opposed to school districts, ~~that~~<sup>which</sup> are entitled to receive state aid for both the regular school term and for summer school. Employees of the Milwaukee charter schools may not be employed by MPS and are thus not eligible to participate in the state's retirement system.

This bill allows any four-year UW–System institution, state technical college, or cooperative educational service agency (CESA) (an agency that facilitates the provision of services to school districts) to operate charter schools (new charter schools) directly or to contract for their operation. The bill ~~also~~ allows the new charter schools and the Milwaukee charter schools to be located in any school district in the state. Only pupils who reside in a school district in which a new charter school is located may attend the new charter school, unless the charter school is established or operated by a CESA, in which case pupils who reside in a school district served by the CESA may attend the charter school. Operators of the new charter schools receive the same amount of state aid per pupil as do the operators of the Milwaukee charter schools for both the regular school term and for summer school. Employees of the new charter schools may not be employed by any school district and are thus not eligible to participate in the state's retirement system.

**\*\*\* ANALYSIS FROM -1704/1 \*\*\***

This bill directs DPI to make loans to school districts to support the development of charter schools. The funds may be used for costs associated with the start-up of a charter school established by a school district.

**\*\*\* ANALYSIS FROM -0960/2 \*\*\***

**\*\*\* ANALYSIS FROM -2358/4 \*\*\***

Current law requires each school board and each Milwaukee charter school to administer standardized examinations to fourth, eighth, and tenth grade pupils enrolled in the school district, including pupils enrolled in charter schools (other

than Milwaukee charter schools) located in the school district. Beginning in the 2002–03 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 the examinations developed by DPI or develop its own examinations. Identical provisions exist under current law for Milwaukee charter schools. DPI provides the examinations that are adopted, approved, or developed by DPI, and scores those examinations, free of charge.

Under current law, each school board must administer to all pupils enrolled in the school district in the third grade, including pupils enrolled in charter schools (other than Milwaukee charter schools) located in the school district, a standardized reading test developed by DPI. The Milwaukee charter schools are required to administer this test to their third grade pupils.

Under current law, the third grade reading test, the fourth, eighth, and tenth grade examinations, and the high school graduation examination are not required to be administered to pupils participating in the Milwaukee parental choice program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in Milwaukee at state expense.

Beginning in the 2002–03 school year, this bill allows a private school participating in the MPCP to choose to administer the grade examinations (the third grade reading test and the fourth, eighth, and tenth grade examinations) or the high school graduation examination, or both, to the pupils attending the private school under the MPCP.

The bill requires that DPI provide all of the examinations administered to MPCP pupils, and score the examinations, free of charge. The bill also generally prohibits DPI from disclosing the results of the examinations administered to MPCP pupils.

Under current law, beginning on July 1, 2002, each pupil must be given at least two opportunities to take the fourth and eighth grade examinations. This bill eliminates the requirement that each pupil be given two opportunities to take each examination; the bill requires only that the examinations be administered to all pupils in the appropriate grades.

Current law directs ~~the state superintendent of public instruction (state superintendent)~~ to make available upon request, within 90 days after the date of administration, any of the required pupil assessments. This bill requires the person

to submit the request in writing and provides that the person may view the examination but not receive a copy. The bill also directs ~~the state superintendent~~ to promulgate rules that, to the extent feasible, protect the security and confidentiality of the examinations. DPI

Currently, ~~the state superintendent~~ annually must identify those school districts that are low in performance and those schools in which there are pupils who do not meet the state minimum performance standards. This bill requires DPI to publish and report a list of the school districts and schools to the governor and the legislature. The bill also requires the identified school districts to develop improvement plans. DPI

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Under current law, ~~school boards may enter into achievement guarantee (SAGE) contracts with DPI to decrease class size and improve academic achievement in grades kindergarten to three.~~ DPI must arrange for an annual evaluation of the SAGE program. This bill requires DPI to select the evaluator of the SAGE program by using a competitive process that ensures impartiality.

This bill creates a ~~five~~ <sup>STET</sup> member board on education evaluation and accountability (BEEA) attached to DOA and headed by an executive director. On July 1, 2002, the bill transfers the pupil assessment program, the school performance report program, and the responsibility for arranging an evaluation of the SAGE program from DPI to BEEA. The bill also authorizes BEEA to conduct a study of the MPCP if BEEA receives sufficient funds from private sources.

\*\*\* ANALYSIS FROM -0887/4 \*\*\*

~~This bill makes a number of changes to the MPCP, including the following:~~

~~1~~ Currently, a private school must notify DPI of the school's intent to participate in the MPCP by May 1 of the previous school year. This bill changes the date to February 1.

~~2~~ The bill directs DPI to notify the private school by March 1 whether the private school is eligible to participate in the ~~program~~. If DPI determines that the school is ineligible, the notice must include an explanation. The bill allows a private school 14 days to appeal a negative determination to DPI and requires DPI to decide the appeal within seven days. MPCP

~~3~~ The bill requires DPI annually by May 15 to publish a list of the private schools that are eligible to participate in the MPCP in the succeeding school year.

\*\*\* ANALYSIS FROM -1697/3 \*\*\*



~~2.~~ Under current law, a pupil is eligible to participate in the MPCP if he or she is a member of a family that has a total family income that does not exceed 175% of the federal poverty level. This bill raises that threshold to 185% and provides that a pupil who participates in the MPCP may continue to participate in subsequent years even if the pupil's family income rises above the threshold.

~~3.~~ Under current law, only private schools located in the city of Milwaukee may participate in the MPCP. This bill provides that a private school located outside the city that is situated on property any portion of which is located in the city may also participate in the MPCP.

*Teach*  
\*\*\* ANALYSIS FROM -1151/4 \*\*\*

Under current law, a person must hold a license to teach granted by DPI in order to be employed as a teacher in a public school in this state. In general, licensure requires completion of a professional education program approved by DPI, including completion of a certain number of credits in specified subjects, student teaching, a criminal background investigation, and payment of a fee.

This bill directs DPI, upon the request of a school board, to grant a temporary initial teaching license to any person who satisfies all of the requirements for an initial license other than the educational requirements if the school board making the request intends to employ the person as a teacher and the school board determines that the person has a bachelor's degree, or at least five years of practical experience, in a field that is related to the subject that he or she will be teaching, or served at least five years in the U.S. armed forces and has practical or teaching experience in a field related to the subject he or she will be teaching. The temporary license is valid for two years and may not be renewed unless the licensee completes an alternative teacher training program during the two-year period, in which case DPI must grant a five-year, renewable, initial teaching license to the person that is considered retroactively effective to the date that the temporary license was granted.

Recent administrative rules promulgated by DPI establish three levels of teacher licensure: initial educator, professional educator, and master educator. This bill directs DPI to grant an initial license to teach to any person who holds a valid license as a teacher issued by another state and also directs DPI to grant the highest level of license (currently, the master educator license) to any person who holds a valid license as a teacher issued by another state and is certified by the National Board for Professional Teaching Standards.

Under current law, DPI awards grants to Wisconsin residents who are licensed by DPI and employed as teachers in Wisconsin and who are certified by the National Board for Professional Teaching Standards. This bill eliminates the grant program's residency requirement.

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**\*\*\* ANALYSIS FROM -1903/1 \*\*\***

Current law requires ~~the state superintendent~~ to revoke, without a hearing, a license granted by ~~the state superintendent~~, if the licensee is convicted of any of a number of specified crimes. In addition, ~~the state superintendent~~ may revoke a license, with a hearing, if the licensee is incompetent or behaves immorally. This bill requires ~~the state superintendent~~ to revoke a license, without a hearing, if the licensee is convicted of a crime in another state or another country that is substantially similar to one of the specified crimes and allows ~~the state superintendent~~ to impose conditions or restrictions on a license or suspend a license, with a hearing, if the licensee is incompetent or behaves immorally.

Current law prohibits ~~the state superintendent~~ from granting a license to a person convicted of a number of specified crimes or of a crime in another country or state that is equivalent to one of the specified crimes. This bill prohibits ~~the state superintendent~~ from granting a license to a person convicted of a number of specified crimes or of a crime in another state or country that is substantially similar to one of the specified crimes.

Under the common law, a court may deny public inspection of a record created or maintained by a public entity if the custodian of the record demonstrates that the public interest in nondisclosure of the information contained in the record outweighs the strong public interest in disclosure. This bill requires ~~an educational agency~~ (in general, a school district or a CESA) to release to ~~the state superintendent~~ all records relating to an employee or former employee of the educational agency who is licensed by ~~the state superintendent~~, if ~~the state superintendent~~ has commenced an investigation to determine whether to initiate license limitation, suspension, or revocation proceedings. The bill also requires ~~the state superintendent~~ to keep this released information confidential.

Current law generally prohibits the disclosure of the results of criminal background investigations conducted by DOJ or the federal bureau of investigation for ~~the state superintendent~~. This bill requires ~~the state superintendent~~ to disclose the results of criminal background investigations to an educational agency if the subject of the criminal background investigation is employed by or applying for

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employment with the educational agency and if the educational agency requests the information and the employee or applicant consents. The bill also requires the educational agency to keep this released information confidential.

**\*\*\* ANALYSIS FROM -0885/3 \*\*\***

Under current law, school districts, CESAs, counties, and operators of Milwaukee charter schools are eligible to receive aid to reimburse them for certain costs of providing special education (~~regular special education costs~~), such as the cost of salaries of special education teachers and the cost of transporting special education pupils to school. When distributing special education aid, DPI must first distribute aid for the full cost of special education for children in hospitals and convalescent homes for orthopedically disabled children. If the remaining sum of money appropriated to reimburse other special education costs is insufficient, DPI must prorate the remaining aid, leaving some eligible entities with unreimbursed special education costs.

This bill provides that a portion of the <sup>special</sup> aid paid to school districts and the Milwaukee charter schools for ~~handicapped~~ education is based on the number of pupils enrolled in the school district or charter school, and a portion is based upon the number of pupils enrolled in the school district or charter school who are eligible for a free or reduced-price lunch under federal law.

The ~~This~~ bill also provides supplemental special education aid to school districts, CESAs, counties, and Milwaukee charter school operators (~~local educational agencies or LEAs~~) if their special education costs per pupil equals or exceeds \$50,000. The amount of this supplemental aid for a "high-cost" special education pupil equals 50% of the difference between \$50,000 and the unreimbursed special education costs. In addition, DPI must first distribute the supplemental aid, along with the aid for children in hospitals and convalescent homes, before distributing aid for other special education services. ~~LEAs may also use regular special education aid for purposes specified under federal law for federal purposes.~~

**\*\*\* ANALYSIS FROM -1690/3 \*\*\***

**\*\*\* ANALYSIS FROM -1828/1 \*\*\***

~~The~~ <sup>This</sup> bill provides that the individualized education program team, appointed by ~~an LEA~~ to evaluate a child to determine whether the child is disabled and to develop an individualized education program for a child with a disability, is not responsible for determining the appropriate special education placement for the child. Under the bill, the LEA is responsible for determining the child's placement.

a local educational agency or LEA (a school district, CESA, county, or Milwaukee charter school operator)

**\*\*\* ANALYSIS FROM -1700/1 \*\*\***

The bill directs ~~the state superintendent~~ to ensure, to the extent practicable, that all rules promulgated by DPI that relate to special education are identical to federal regulations that relate to special education.

**\*\*\* ANALYSIS FROM -0956/6 \*\*\***

Under current law, a school board may enter into a five-year, achievement guarantee (SAGE) contract with DPI. In exchange for reducing class size and meeting certain performance criteria designed to improve academic achievement in grades kindergarten to three, a school board receives \$2,000 for each low-income pupil enrolled in a school participating in the SAGE program.

This bill allows DPI to renew a SAGE contract for one or more terms of five years. The bill also provides that a school board that entered into a SAGE contract in the 2000-01 school year on behalf of a school with a low-income enrollment of less than 50% is required to maintain the reduced class size in kindergarten and first grade, as opposed to reducing class size in grades kindergarten to three.

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**\*\*\* ANALYSIS FROM -2057/1 \*\*\***

Current law 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 the amount of revenue increase allowed per pupil in the previous school year increased by the percentage change in the consumer price index. Several exceptions to this revenue limit exist, including an exception for a school district with a per pupil base revenue for the previous school year that is less than the statutorily prescribed revenue ceiling of \$6,500 per pupil. Such a school district is allowed to increase its per pupil revenue up to this ceiling without holding a referendum.

This bill eliminates the inflation adjustment beginning in the 2001-02 school year and sets the amount at \$220.29 per pupil for the 2001-02 school year and for each subsequent school year. The bill also changes the revenue ceiling to \$6,700 per pupil for the 2001-02 school year and to \$6,900 per pupil in subsequent school years.

**\*\*\* ANALYSIS FROM -0890/1 \*\*\***

Under current law, if a school district exceeds its revenue limit, ~~the state superintendent of public instruction~~ must deduct from the district's state aid payments an amount equal to the excess revenue. If the amount is insufficient to cover the excess revenue, the statutes direct ~~the state superintendent~~ to order the school board to reduce the property tax obligations of its taxpayers by an amount that represents the remainder of the excess revenue.

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(wff) Under article XI, section 3 (3), of the Wisconsin Constitution, ~~however,~~ when a school district borrows money it must levy an irrepealable tax sufficient to pay the principal of and interest on the debt.

This bill provides that ~~the state superintendent's~~ order to reduce the property tax obligations of a school district's taxpayers does not apply to property taxes levied for the purpose of paying the principal and interest on debt validly issued by the school board.

\*\*\* ANALYSIS FROM -1513/2 \*\*\*

Under current law, if a school district's revenue is less than its revenue limit, it may carry over 75% of its unused revenue-limit authority to the next school year. In addition, each fall DPI calculates the total amount of state aid that each school district will receive in the current school year and makes any necessary adjustments to that calculation by increasing or decreasing state aid paid in the following September.

This bill provides that a school district whose aid is increased by DPI in September of the following school year and whose aid increase is less than its unused revenue-limit authority may carry over as unused revenue-limit authority an amount equal to the amount of the additional September aid plus an amount calculated by: (1) determining its unused revenue-limit authority; and (2) multiplying the difference between the remainder and the amount of additional September aid by 0.75.

(wff) If the school district's increase in aid is equal to or greater than its unused revenue-limit authority, the bill provides that the school district may carry over 100% of its unused revenue-limit authority.

\*\*\* ANALYSIS FROM -0941/2 \*\*\*

Under current law, 40% of a school district's summer enrollment is included in its enrollment count when the school district's revenue limit is calculated. This bill reduces this percentage to 25% by the 2003-04 school year.

\*\*\* ANALYSIS FROM -1631/1 \*\*\*

Currently, the general school aid formula provides three tiers of state support for the public schools. The second tier of support is for costs per student between \$1,000 and the secondary cost ceiling. Currently, the secondary cost ceiling per pupil is the prior year's secondary cost ceiling per pupil adjusted by the rate of inflation. This bill sets the secondary cost ceiling per pupil at \$6,900 in the 2001-02 school year

and \$7,300 in the 2002–03 school year. Thereafter, the secondary cost ceiling per pupil is the prior year's cost ceiling adjusted for inflation.

**\*\*\* ANALYSIS FROM -1395/3 \*\*\***

Current law guarantees that a school district will receive in "special adjustment aid" at least 85% of its prior year's payment of general school aid. In addition, each fall DPI calculates the total amount of state aid that each school district will receive in the current school year and makes any necessary adjustments to that calculation by increasing or decreasing state aid paid in the following September. This bill provides that DPI may not consider the amount of this adjustment of state aid in calculating special adjustment aid.

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**\*\*\* ANALYSIS FROM -1598/1 \*\*\***

Under current law, referenda are required or authorized to be held by school districts in order 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 the Milwaukee Public Schools (MPS). These referenda are required or authorized to be held at special elections when no offices appear on the ballot. ↗

(wA) This bill provides that the 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.

**\*\*\* ANALYSIS FROM -1392/3 \*\*\***

Under current law, a public school may not begin the school term until September 1 unless it holds a public hearing on the issue and adopts a resolution. The hearing must be held no earlier than the preceding July 1. ↗

(wA) Beginning in the 2002–03 school year, this bill allows the hearing to be held as early as the preceding May 1. The bill also prohibits classes from being held on August 30, 2001, and August 31, 2002.

Under current law, a school district is required to bargain collectively in good faith with the majority representative of its employees in a collective bargaining unit concerning the wages, hours, and conditions of employment of the employees. Among the subjects that are mandatory subjects of collective bargaining is any school calendaring proposal that is *primarily related to* wages, hours, and conditions of employment. ↗

(wA) This bill provides that a school district may not bargain collectively with respect to the establishment of the school calendar, but expressly requires that a school

district must bargain collectively with respect to the *the* *impact* of any school calendar decision on wages, hours, and conditions of employment.

\*\*\* ANALYSIS FROM -1590/3 \*\*\*

Current law authorizes MPS board to contract with any nonsectarian private school located in the city to provide educational programs for pupils enrolled in the school district (educational services statute). The MPS board may also close any school that it determines is low in performance (school closing statute). 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 employees who perform those services; or 2) the reassignment of employees 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 an individual to operate a charter school or to convert a school to a charter school, or the impact of any such reassignment on the wages, hours, or conditions of employment of the employees who perform those services (collective bargaining statute). ↗

(nw) This bill extends the educational services, school closing, and collective bargaining statutes to cover all school boards.

\*\*\* ANALYSIS FROM -1613/1 \*\*\*

Current law allows two or more school districts to consolidate. On the effective date of the consolidation, employees of the consolidating school districts become employees of the new consolidated school district. ↗

(nw) This bill authorizes the school district administrator of the new consolidated school district, for 60 days after the effective date of the consolidation, to lay off or reassign school district employees without regard to seniority in service. In addition, the bill provides that any such layoff or reassignment of school district employees is a prohibited subject of collective bargaining.

\*\*\* ANALYSIS FROM -1775/4 \*\*\*

~~This~~ This bill directs DPI to award grants to up to six school boards on behalf of schools that demonstrate improved academic performance and to promulgate rules to implement the grant program that include, as performance criteria, dropout rates, improvement in pupils' performance and in teachers' knowledge and skills,

graduation rates, and the number of teachers who have received national board certification. DPI must ensure that the grants do not exceed \$2,000 multiplied by the number of employees in all schools in the school district that meet the performance criteria contained in DPI's rules.

Under current law, a school district may not provide to its professional employees who are not in collective bargaining units an average increase in compensation and fringe benefits that has an average cost per employee exceeding 3.8% of the average total cost per employee of compensation and fringe benefits provided by the school district to such employees for the preceding 12-month period ending on June 30 or the average total percentage increased cost per employee of compensation and fringe benefits provided to its professional employees who are in collective bargaining units during the 12-month period ending on June 30 preceding the date that the increase becomes effective, whichever is greater. This bill provides that any compensation received by professional employees who are not in collective bargaining units from school performance grants is not subject to this limitation on compensation and fringe benefit costs.

**\*\*\* ANALYSIS FROM -0656/1 \*\*\***

This bill directs the technology for educational achievement in Wisconsin <sup>(TEACH)</sup> board to award grants to school districts in the 2001–03 fiscal biennium to train pupils to provide educational technology support services.

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to  
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**\*\*\* ANALYSIS FROM -1396/1 \*\*\***

Current law exempts computers from property taxation. This bill provides that the amounts received by school districts to compensate them for the reduction in their tax base due to the property tax exemption for computers is included in their shared cost for the purpose of computing general aid.

**\*\*\* ANALYSIS FROM -1623/2 \*\*\***

This bill directs DPI to award grants to CESAs to fund the development, for school districts, of education services that are unrelated to instruction. The bill also directs DPI to award grants to two or more school districts that are considering consolidating or coordinating the provision of educational services for the purpose of studying the feasibility of the consolidation or coordination.

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**\*\*\* ANALYSIS FROM -0947/1 \*\*\***

Under the open enrollment program, a pupil may attend any public school located outside his or her school district of residence if the pupil's parent complies with certain application procedures. A school board may, however, deny an open



enrollment application if the school district does not have enough space for the pupil. In determining the availability of space, a school board may consider class size limits, pupil–teacher ratios, nonresident pupils whose school district of residence pays tuition to the nonresident school district, and enrollment projections. If the school board receives more open enrollment applications than it has spaces, the school board must select pupils randomly. A school board must also give preference in accepting open enrollment applications to pupils already attending school (continuing pupils) and their siblings.

In *McMorrow v. State Superintendent of Public Instruction, John T. Benson*, No. 99–1288 (July 25, 2000), the Wisconsin Court of Appeals held that the requirement that a school board give preference in accepting open enrollment applications to continuing pupils and their siblings applies only when there are spaces available in the first place; when there are more applicants than available spaces, the pupils accepted must be determined randomly. The court also held that a school board may not include continuing pupils in its space determination. ↗

(W) This bill permits a school board to adopt policies that include continuing pupils and their siblings in space determinations and allows a school board to give preference in accepting the open enrollment applications of continuing pupils and their siblings, even if the school board determines that it does not have space for the pupils.

**\*\*\* ANALYSIS FROM -1632/3 \*\*\***

In administering the open enrollment program, DPI annually adjusts each school district's share of state aid depending upon whether the district has more or fewer nonresidents attending the district than it has residents attending other districts. The per pupil adjustment is based upon the statewide average per pupil cost for regular instruction, cocurricular activities, instructional support services, and pupil support services. This bill bases the adjustment on two-thirds of the total statewide average per pupil cost.

Currently, with certain exceptions, if a pupil attends a public school outside the school district in which the pupil resides, the pupil's parent or guardian pays tuition. Tuition is currently the statewide average per pupil cost for regular instruction, cocurricular activities, instructional support services, and pupil support services. Under this bill, beginning in the 2002–03 school year, tuition is two-thirds of the total statewide average per pupil cost.

**\*\*\* ANALYSIS FROM -1703/4 \*\*\***

This bill creates an 11-member committee, appointed by the governor, to review and make recommendations for modifying DPI's administrative rules. The committee must identify those rules that are outmoded, impede innovation, cause inefficiencies, or fail to promote academic achievement, and those rules that should not apply to school districts that are granted extended flexibility status. DPI must review the committee's recommendations and propose modifications to its rules based on those recommendations.

**\*\*\* ANALYSIS FROM -1705/4 \*\*\***

This bill directs DPI to submit to the governor and to DOA a plan for the reorganization of the division for learning support and instructional services in DPI. The plan must provide for the creation of a bureau for school improvement to provide on-site, technical assistance to schools and school districts, especially schools and school districts that are low in performance. If the plan is approved by the governor, the bureau must consist of school performance teams, each of which must include one licensed teacher employed by a school district and assigned to DPI under an interagency exchange agreement.

**\*\*\* ANALYSIS FROM -1699/2 \*\*\***

This bill prohibits ~~the state superintendent~~ from promulgating a rule that relates to distance education without the approval of the secretary of administration, the technical college system board, and the technology for educational achievement in Wisconsin board.

**\*\*\* ANALYSIS FROM -1601/2 \*\*\***

This bill directs ~~the state superintendent~~ to distribute to school districts the maximum amount of federal aid that is allowed under federal law, except for those funds provided for administrative purposes.

**\*\*\* ANALYSIS FROM -1602/1 \*\*\***

This bill directs ~~the state superintendent~~ to ensure that the vocational education consultants employed by DPI coordinate their activities with the staff of the governor's work-based learning board.

**\*\*\* ANALYSIS FROM -0940/4 \*\*\***

Currently, the state pays public school tuition for any pupil in a foster home, treatment foster home, or group home if the home is located outside the school district in which the pupil's parent or guardian resides and the home is exempt from property taxation.

(WFF) →

Under this bill, the state also pays public school tuition for any pupil who resides in a foster home, treatment foster home, or group home if the home is located outside the school district in which the pupil's parent or guardian resides and the pupil receives special education, even if the home is subject to property taxation, if at least 4% of the school district's enrollment resides in such homes that are subject to property taxation.

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**\*\*\* ANALYSIS FROM -1701/1 \*\*\***

With certain exceptions, current law requires that bilingual-bicultural education programs be taught by bilingual teachers. This bill eliminates this requirement for programs in grades kindergarten to eight.

**\*\*\* ANALYSIS FROM -1860/1 \*\*\***

Under current law, towns, villages, cities, counties, public inland protection and rehabilitation districts, town sanitary districts, metropolitan sewerage districts, joint sewerage systems, school districts, technical college districts, cooperative educational service agencies, and consortia of two or more school districts, technical college districts, counties, cities, villages, or towns may obtain state trust fund loans from the board of commissioners of public lands. Currently, a federated public library system whose territory lies within one county is considered to be an agency of that county and, therefore, may obtain a state trust fund loan through the county. This bill permits a federated public library system whose territory lies within two or more counties, which is a separate legal entity from the counties participating in that system, to obtain a state trust fund loan.

**\*\*\* ANALYSIS FROM -0916/6 \*\*\***

This bill requires ~~the state superintendent of public instruction~~ <sup>DPI</sup> to charge school districts a fee for the use of BadgerLink, which provides statewide access, through the Internet, to periodical and reference information databases.

**\*\*\* ANALYSIS FROM -2330/1 \*\*\***

**HIGHER EDUCATION**

Current law prohibits the UW board of regents (board) from increasing resident, undergraduate tuition beyond an amount that is sufficient to fund certain costs, such as compensation and fringe benefits for UW employees and the costs of nontraditional courses, but permits the board to spend the entire amount of tuition received. Beginning in the 2002-03 academic year, this bill eliminates the restrictions on increasing resident undergraduate tuition.

**\*\*\* ANALYSIS FROM -1773/3 \*\*\***

Under current law, the board may not create or abolish any position funded with general purpose revenues (GPR) without legislative approval. This bill permits the board to create or abolish faculty and academic staff GPR-funded positions without legislative approval if it submits a request to DOA containing a clear explanation of how the board will fill the requested position and if DOA approves the request.

**\*\*\* ANALYSIS FROM -1774/1 \*\*\***

Under current law, the board may create or abolish certain positions funded with program revenue without legislative approval if it reports the number of positions created or abolished and the funding source to DOA and JCF. This bill allows the board to create positions funded from program revenue generated from courses for which nonresident and resident students pay the same tuition and for which the tuition charged equals 100% of the cost of offering the course. The bill also imposes the same reporting requirement for these new positions.

**\*\*\* ANALYSIS FROM -1595/1 \*\*\***

Under current law, the board may, until the 2000-01 academic year, exempt from the payment of nonresident tuition a certain number of students enrolled at UW-Parkside and UW-Superior. This bill allows the UW board to continue to exempt these pupils after the 2000-01 academic year.

**\*\*\* ANALYSIS FROM -1762/2 \*\*\***

**\*\*\* ANALYSIS FROM -1776/4 \*\*\***

Current law requires the board to make all reasonable efforts to provide night courses. This bill instead requires the board to ensure that at least 15% of all UW System course sections that are offered for credit and that do not exclude undergraduate students are offered during the evenings and weekends or by electronic means.

**\*\*\* ANALYSIS FROM -2263/2 \*\*\***

Under current law, the board must remit resident, undergraduate tuition for children or spouses of certain persons, such as police officers, who are killed in the line of duty. This bill directs the board to remit the resident, undergraduate tuition of the winner of the Wisconsin state science fair for up to five consecutive years. A winner who receives the fee remission, remains in good academic standing, and completes a bachelor's degree receives a two-year fee remission for a science-related graduate program.

~~\*\*\* ANALYSIS FROM -1694/11 \*\*\*~~

← STET

This bill provides for the transfer of moneys to the board of ~~regents of the UW system~~ for various purposes if the Wisconsin Advanced Telecommunications Foundation grants to DOA the unencumbered balances of its endowment fund and fast start fund. See **OTHER EDUCATIONAL AND CULTURAL AGENCIES**.

**\*\*\* ANALYSIS FROM -1847/3 \*\*\***

*technical college system*  
~~This bill makes several changes in the statutes pertaining to the technical college system (TCS), including all of the following:~~

~~1~~ Currently, the ~~(TCS)~~ board must approve the qualifications of educational personnel and the courses of study for each program offered in the district schools. This bill allows a district board to employ an instructor who is not certified by the TCS board if the instructor holds a valid industry certification recognized by the TCS board.

~~2~~ Current law prohibits the TCS board from considering any course of study for approval if the course has not first been approved by the district board. This bill eliminates this prohibition. The bill also requires the district board to offer any program or course of study that the TCS board directs the district board to offer, and to eliminate any program or course of study that the TCS board directs the board to eliminate.

~~3~~ Currently, a district board must hold a referendum if it intends to make a capital expenditure that exceeds \$500,000. Under certain conditions, that requirement does not apply to a capital expenditure to purchase or construct an applied technology center. One of the conditions is that the expenditure be made before January 1, 2002. This bill extends that date to July 1, 2003.

~~4~~ The TCS board currently awards incentive grants to district boards for a variety of purposes. This bill authorizes the TCS board to award a grant to a district board to assist in the statewide marketing and promotion of the TCS. The bill also prohibits the TCS board from awarding any incentive grant to a district board without first reviewing and approving the district board's budget.

**\*\*\* ANALYSIS FROM -1761/1 \*\*\***

This bill directs the governor to appoint a committee to study the feasibility of consolidating the ~~University of Wisconsin System~~ two year colleges and the ~~technical college system~~ and to report its findings to DOA by January 1, 2002.

**\*\*\* ANALYSIS FROM -1694/11 \*\*\***

This bill directs the ~~technical college system (TCS)~~ board to establish a system that allows a student enrolled in one technical college to enroll in a course offered

*STOP* →

*uw*

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**\*\*\* ANALYSIS FROM -1694/11 \*\*\***

*START*  
 This bill directs the ~~technical college system~~ (TCS) board to establish a system that allows a student enrolled in one technical college to enroll in a course offered

over the Internet by another technical college without paying additional fees to the technical college offering the course. The bill also directs the TCS board to assist technical colleges to develop Internet courses and to establish an Internet site that provides information on all such courses.

\*\*\* ANALYSIS FROM -0616/P1 \*\*\*

EDUCATION

HIGHER EDUCATION ✓

Under current law, the college tuition and expenses program (popularly known as "EdVest") allows a person to purchase "tuition units" that can later be used to pay college tuition, room, board, and related expenses on behalf of the purchaser ~~himself or herself~~, the purchaser's child or legal guardian, or, if the purchaser is a trust, the beneficiary of the trust. The college savings program, designed to complement EdVest, allows a person, including a charitable organization, to make contributions to a college savings account to pay the college expenses of a named beneficiary or an unnamed, future recipient of a scholarship account established by the charitable organization.

EdVest is administered by the state treasurer, while <sup>the</sup> college savings program is administered by a college savings board (board) ~~that~~ <sup>which</sup> must contract with a private vendor for the investment of the contributions to the college savings accounts. Both a college tuition and expenses or college savings account must be closed if the funds in the account are not used within ten years of the original projected date of the beneficiary's or recipient's enrollment.

This bill allows a person to purchase tuition units on behalf of any named beneficiary, allows a charitable organization to open an EdVest scholarship account for an unnamed, future recipient, and permits, but does not require, the state treasurer or the board to close a college tuition and expenses or college savings account if the account's funds are not used within ten years of the original projected date of the beneficiary's or recipient's enrollment. The bill also ~~requires any revenue generated by either program (including contributions and distributions) to pass through the state treasury and~~ permits revenues generated from EdVest or college savings program enrollment fees and fees paid by the college savings program vendor to be used to defray the administrative costs of either program. Finally, the bill makes some technical changes to improve accounting of EdVest and college savings program moneys.

~~\*\*\* ANALYSIS FROM -1950/1 \*\*\*~~

← STET

Under current law, the higher education aids board (HEAB) distributes funds to private institutions of higher education for grants to retain minority undergraduates. This bill requires HEAB to report annually to DOA on the effectiveness of this grant program.

**\*\*\* ANALYSIS FROM -0684/2 \*\*\***

Under current law, school districts, public library boards, and certain other educational agencies are eligible to receive grants and loans for educational technology from the TEACH board. This bill makes the ~~University of Wisconsin~~ Milwaukee, Milwaukee Area Technical College, and the city of Milwaukee eligible to receive these grants and loans on behalf of charter schools that they sponsor.

STET

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**\*\*\* ANALYSIS FROM -0985/8 \*\*\***

**OTHER EDUCATIONAL AND CULTURAL AGENCIES**

Under current law, the educational communications board (ECB) is responsible for overseeing the provision of public broadcasting to this state. 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 creates a public broadcasting transitional board (transitional board) that is responsible for creating a nonstock, nonprofit educational broadcasting corporation (corporation). The bill directs the transitional board to draft and file articles of incorporation for a corporation and to take all actions necessary to exempt the corporation from taxation under the Internal Revenue Code. In addition, the transitional board must provide in the articles of incorporation that the members of the transitional board are the initial directors of the corporate board. The transitional board must prepare an application for the corporate board to submit to the federal communications commission (FCC) to transfer all broadcasting licenses held by the ECB and the board of regents to the corporation, except licenses held by the board of regents for student radio; negotiate an agreement with the Wisconsin Public Radio Association to transfer funds raised by the Wisconsin Public Radio Association to the corporation; and negotiate an agreement with each friends group to transfer funds raised by the friends group to the corporation.

If the FCC approves the transfer of all broadcasting licenses held by the ECB to the corporation, the ECB is eliminated on the effective date of the transfer. If the



FCC approves the transfer of all broadcasting licenses held by the board of regents to the corporation, the corporation assumes the broadcasting activities of the board of regents.

The corporation is entitled to receive state aid for its operational expenses if the corporation, generally, maintains a state system of radio broadcasting for presenting educational, informational, and public service programs; maintains television channels for educational use; and enters into a contract with the board of regents for the services of the employees of the board of regents related to providing public broadcasting services.

If the FCC approves the transfer of all broadcasting licenses held by the ECB to the corporation, ECB employees become DOA employees and those employees will provide broadcasting services to the corporation under a contract between DOA and the corporation.

INS.  
FROM  
P. 65

**\*\*\* ANALYSIS FROM -0445/3 \*\*\***

Under current law, school districts and other educational agencies are eligible to receive TEACH technology block grants (to be used for any purpose related to educational technology), educational technology training and technical assistance grants, loans to fund the installation and upgrading of computer network wiring, and subsidized access to new data lines and video links. This bill makes certain secured correctional facilities for juvenile delinquents eligible for the technology block grants, the educational technology training and technical assistances grants, and the subsidized access to new data lines and video links.

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P. 72

<sup>the</sup> **\*\*\* ANALYSIS FROM -0705/3 \*\*\***

Under current law, <sup>the</sup> TEACH board makes subsidized loans to school districts and public library boards that may be used only for upgrading and installing computer network wiring. In addition, certain educational agencies, such as school districts and public library systems, may participate in the educational telecommunications access program, which provides these agencies with access to data and video links.

This bill allows public library boards to use the loans to purchase hardware necessary for direct connection to the internet and to enter into shared services agreements concerning telecommunications access with local units of government. The bill also permits individual public library branches to participate in the educational telecommunications access program.

**\*\*\* ANALYSIS FROM -0657/2 \*\*\***

STET

Effective February 6, 2001, the foundation dissolved itself and transferred its funds to DOA as a gift.

This bill directs the TEACH board to conduct approximately six pilot projects in the 2001-02 fiscal year for the purpose of studying emerging technology products, services, and applications for distance learning in primary and secondary schools.

\*\*\* ANALYSIS FROM -1694/11 \*\*\*

Under current law, the state has participated in the formation and operation of the Wisconsin Advanced Telecommunications Foundation (foundation), which is organized as a nonstock corporation. As required under current law, the foundation has established an endowment fund, which consists of a onetime \$500,000 contribution by the state and contributions by telecommunications providers. As also required under current law, the foundation has established a fast start fund, which consists of contributions by telecommunications providers. The foundation uses both funds to provide funding for advanced telecommunications technology applications projects and efforts to educate telecommunications users about advanced telecommunications services. Current law also provides that if the foundation substantially ceases operations, the state's unencumbered contribution to the endowment fund must be returned to the state.

by DOA

This bill eliminates all provisions under current law regarding the foundation. In addition, the bill provides that ~~if the foundation grants the unencumbered balances of the endowment fund and the fast start fund to DOA in fiscal year 2001-02, including the contributions made by telecommunications providers, then \$2,000,000 of the moneys that are received are transferred to the TCS board for establishing an Internet site that lists all the Internet courses provided by the technical colleges and to assist technical colleges to develop Internet courses.~~

also

~~If the foundation makes the grant described above, the bill provides that the following moneys that are received are transferred to the technology for educational achievement in Wisconsin (TEACH) board for the following purposes: 1) \$136,200 for administrative and support services to resolve the outstanding business of the foundation and performing other duties specified by the secretary of the TEACH board; and 2) \$566,200 for closing out any existing grants made by the foundation.~~

by DOA ==?

In addition, ~~if the foundation makes the grant described above,~~ the bill provides that the following moneys that are received are transferred to the board of regents of the UW System for the following purposes: 1) \$250,000 for the UW Learning Innovations at UW-Extension to establish a nonprofit, tax-exempt corporation whose purpose is to establish distance education classrooms in Wisconsin trade offices abroad and offer UW System distance education courses from those

by DOA ==?

classrooms; 2) \$3,000,000 for funding the activities of the UW Learning Innovations at UW-Extension; 3) \$500,000 for developing wireless networking systems that allow students to use laptop computers and docking stations to connect to the Internet; 4) \$2,000,000 for funding the UW System's project designated "Internet 2," which upgrades technology infrastructure on campuses for enhancing high-speed Internet activity; 5) \$500,000 for purchasing a digital mammography machine for the UW Medical School; and 6) \$1,000,000 for funding the Wisconsin advanced distributed co-laboratory, a computer laboratory located on the UW-Madison campus. If the last transfer is made, the UW System board of regents must submit a report to DOA by September 1, 2003, that shows how the money was used and describes any federal funding for the co-laboratory.

Also under the bill, ~~if the foundation makes the grant described above, then~~ the following moneys that are received are transferred to DPI for the following purposes: 1) \$579,000 for upgrading the Wisconsin Informational Network for School Success; 2) \$77,800 for upgrading the state school finance information system; 3) \$526,000 for completing a network upgrade and upgrading and replacing assistive technology devices and related software programs for the Wisconsin Center for the Blind and Visually Impaired; 4) \$161,600 for replacing the automated system at the Wisconsin Regional Library for the Blind and Physically Handicapped; and 5) \$500,000 for making a grant to the National Geographical Society Education Foundation for establishing a program for awarding grants and supporting programs for improving geographical education in the state, with an emphasis on student use of geographic information systems technology. The transfer of \$500,000 for making the grant to the National Geographical Society Education Foundation is contingent on that foundation's contribution of \$500,000 in matching funds for the program that is established.

by DOA

of the moneys received by DOA

UW

The bill also provides that, ~~if the foundation makes the grant described above,~~ \$1,500,000 is transferred to the department of commerce to make grants, no later than June 30, 2003, to the ~~University of Wisconsin~~ <sup>UW</sup> Milwaukee, the ~~University of Wisconsin~~ Parkside, Marquette University, the Milwaukee School of Engineering, and the Medical College of Wisconsin. The grants must be used for research related to emerging technologies that promote industrial and economic development in southeastern Wisconsin. The department of commerce and a grant recipient must enter into an agreement that specifies reporting and auditing requirements for the grant.

js end

*In addition* of the moneys received by PSA

~~Finally~~, the bill provides that, ~~if the foundation makes the grant described above~~, \$168,300 is transferred to the higher educational aids board <sup>HEAB</sup> for upgrading technology at the board.

\*\*\* ANALYSIS FROM -0911/4 \*\*\*

**EMPLOYMENT**

Under the municipal employment relations act (MERA), the selection of any group health care benefits provider for municipal employees, including school district employees, is treated as a mandatory subject of collective bargaining if the selection of the provider primarily relates to the wages, hours, and working conditions of the employees.

*(w/4)* This bill provides that the selection of any group health care benefits provider for school district professional employees is treated as a permissive subject of collective bargaining under MERA (which means that the employer is not required to bargain with respect to the subject) if the provider offers health care benefits coverage that is *substantially similar* to that offered by other providers in bids submitted to school districts. Under the bill, OCI must promulgate rules that set out a standardized summary of health care benefits for use in determining whether coverage offered by different providers that submit bids to school districts is *substantially similar*.

Under MERA, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin employment relations commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator, WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

This process, however, does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district professional employes if WERC determines that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and to maintain all of the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1% of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings.

*ns 9* This bill provides that a QEO need only provide substantially similar health care benefits, not all of the health care benefits.

**\*\*\* ANALYSIS FROM -2338/1 \*\*\***

*9*

*of Milwaukee*

~~This bill changes the collective bargaining law covering collective bargaining units that consist of members of a police department who are employed by cities of the 1st class (currently, only the city of Milwaukee). Under current law, an arbitrator is appointed to resolve any collective bargaining dispute between the city and the members of the police department when the parties have reached an impasse on matters relating to wages, hours, and conditions of employment, as determined by WERC. The bill authorizes an arbitrator to establish a system for conducting interrogations of members of the police department that is limited to the hours between 7 a.m. and 5 p.m. on working days, if the interrogations could lead to disciplinary action, demotion, or dismissal. Under the bill, "working days" are all days except Saturday, Sunday, and certain legal holidays.~~

*city's*

*This*

**\*\*\* ANALYSIS FROM -1891/4 \*\*\***

Under current law, the national and community service board, which is attached to DOA for administrative purposes, administers at the state level the federal National and Community Service Trust Act of 1993, under which the federal government provides funding for national service programs that address unmet human, educational, environmental, and public safety needs and for educational grants to persons who successfully complete their term of service in a national service program. This bill transfers that board to DWD.

Under current law, the Wisconsin conservation corps (WCC) employs young adults to work on conservation and human services activities. The WCC program is administered by the WCC board, which may delegate its administration responsibilities to the executive secretary of the board. This bill eliminates the WCC

board and the position of executive secretary of the board and transfers administration of the WCC program to DWD. The bill also creates a WCC council to advise DWD in developing guidelines, standards, and procedures for the administration of the WCC program, including guidelines for selecting WCC projects and standards and procedures for the selection, hiring, promotion, discipline, and termination of WCC enrollees.

The bill also requires DWD to work with a nonprofit corporation that provides education, employment skills, and career direction leading to economic self-sufficiency to young people in Dane County who are at risk of not achieving economic self-sufficiency to develop a plan to track the educational attainment of persons enrolled in the WCC program, consolidate the functions of the WCC program, add educational and training components to the WCC program, provide a method for determining the location and number of crews working on WCC projects, and improve the retention of persons enrolled in the WCC program.

**\*\*\*\* ANALYSIS FROM -0671/4 \*\*\*\***

Under current law, a WCC enrollee who is employed for a continuous six-month period and who receives a satisfactory evaluation is entitled to an education voucher that the enrollee may use, for three years after its issuance, to pay tuition and fees at an institution of higher education. A WCC enrollee who has been a crew leader or a regional crew leader for at least two years is also entitled to group health care coverage. This bill permits a WCC enrollee to use an education voucher for four years after its issuance. The bill also lowers to six months the period for which a WCC enrollee must have been a crew leader or a regional crew leader to be eligible for group health care coverage.

**\*\*\* ANALYSIS FROM -1835/1 \*\*\***

Under current law, DWD may fix and collect a reasonable fee for issuing child labor permits, street trade permits, and certificates of age for minors. DWD has fixed that fee by rule at \$5, 50% of which may be retained by a permit officer who is not employed by DWD and 50% of which must be forwarded by such a permit officer to DWD. This bill increases that fee to \$7.50 and requires a permit officer who is not employed by DWD to forward \$5 of that fee, and a permit officer who is employed by DWD to forward the entire fee, to DWD, ~~which must deposit the amount forwarded in the general fund and credit \$2.50 of that amount to an appropriation account created by the bill~~ to pay for the expenses of providing an automated child labor

is used

0.5 of each fee collected

permit system and for other operational expenses of the division of equal rights in DWD.

*administer the*

**\*\*\* ANALYSIS FROM -2009/1 \*\*\***

*under which*

Under current law, the governor's work-based learning board (board) is required to ~~provide~~ youth apprenticeship program ~~that includes~~ training grants to employers that provide paid on-the-job training and supervision for youth apprentices. This bill limits eligibility for a youth apprenticeship training grant to small employers, as determined by the board, and to employers providing on-the-job training in employment areas determined by the board.

*are awarded*

Under current law, DWD provides a job center network through which job seekers may receive comprehensive career planning, job placement, and job training information. As part of the job center network, DWD provides career counseling centers at which youths may receive access to comprehensive career education and job training information and assistance in locating apprenticeship and other work experience opportunities that are related to the youth's education. This bill transfers responsibility for providing career counseling centers from DWD to the board.

**\*\*\* ANALYSIS FROM -1834/2 \*\*\***

*in DWD*

Under current law, there is ~~created in DWD~~ a division of workforce excellence, and the administrator of that division is a member of the board. This bill eliminates that division and substitutes as a member of the board an administrator of a division in DWD, designated by the governor.

**\*\*\* ANALYSIS FROM -0360/2 \*\*\***

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

***Local governmental units and contaminated property***

Current law authorizes a local governmental unit that owns property that is contaminated with hazardous substances to initiate a process for negotiating about how the contamination will be remedied and how much the various parties that are responsible for the contamination will contribute toward the investigation and remedial action costs. The negotiations are ~~conducted~~ by an umpire. If an agreement is reached, it is binding on the parties. If an agreement is not reached, the umpire makes a recommendation that may be accepted or rejected by the parties. If the local governmental unit accepts the recommendation and another party rejects the recommendation, the local governmental unit may sue that party to attempt to recover a portion of the investigation and clean-up costs. If the local governmental

*presided over*

unit recovers an amount equal to or exceeding the amount that the party would have paid under the umpire's recommendation, the local governmental unit may recover interest and litigation costs.

This bill ~~modifies the local governmental unit cost-recovery process. The bill~~ expands the applicability of the process so that it may be used by a local governmental unit that does not own a contaminated property if the local governmental unit is responsible for some of the contamination at the site or facility and commits itself to paying more than 50% of the investigation and remedial action costs, less any financial assistance received from this state. Under ~~this bill~~, DNR determines how contamination will be remedied, after considering a proposal from the local governmental unit, and the negotiations only relate to the amount that each responsible party will contribute toward the investigation and clean-up costs. Under ~~this~~ bill, if a person who transported hazardous substances to a contaminated property cooperates in providing information about the transport and disposal of waste at the property, the amount of clean-up costs allocated to the transporter are limited. If a transporter fails to cooperate, the amount of costs allocated to the transporter may be increased.

**\*\*\* ANALYSIS FROM -1308/3 \*\*\***

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. Current law generally exempts a local governmental unit from these clean-up requirements with respect to hazardous substance discharges on property acquired in specified ways, such as through tax delinquency proceedings and condemnation.

This bill provides that a local governmental unit is exempt from solid waste management standards and other legal requirements relating to solid waste with respect to a property that was acquired in a way that would qualify for the exemption from clean-up requirements, except that the exemption from solid waste requirements does not apply to a solid waste facility that was owned by the local governmental unit while it was operated or to landfills.

**\*\*\* ANALYSIS FROM -1314/2 \*\*\***

Under current law, if a person does not pay the tax that is due on the person's real property before September 1, the county treasurer must issue a tax certificate to the county that relates to the property. The issuance of a tax certificate begins the



redemption period during which the person may retain the person's property by paying the delinquent taxes. In most cases, the redemption period is two years. If the property owner does not pay the delinquent taxes before the redemption period expires, the county may acquire the property by taking a tax deed on the property, by commencing an action to foreclose the tax certificate, or by commencing an action to foreclose a tax lien on the property.

Under this bill, after the redemption period on tax delinquent property expires, the county may transfer the property to a person by executing a tax deed to that person, if the county provides written notice of the transfer to the municipality in which the property is located at least 15 days before the governing body of the county meets to consider approving executing the tax deed; the property is a brownfield; an environmental assessment has been conducted on the property and DNR is given the results of that assessment; and, if the property is contaminated by a hazardous substance, the person to whom the tax deed is executed agrees to investigate, clean up, maintain, and monitor the property according to rules that are promulgated by DNR.

**\*\*\* ANALYSIS FROM -1315/2 \*\*\***

Under current law, a county may sell any tax delinquent property it acquires by using a competitive bidding process by which the county accepts the best bid, but rejects any bid that is less than the property's appraised value.

(w/4) Under this bill, a county that acquires tax delinquent property may sell the property without using a competitive bidding process, if the county provides written notice of the sale to the municipality in which the property is located at least 15 days before the sale; the property is contaminated by a hazardous substance; the property is a brownfield; an environmental assessment has been conducted on the property and DNR is given the results of that assessment; and the purchaser of the property agrees to investigate, clean up, maintain, and monitor the property according to rules that are promulgated by DNR.

**\*\*\* ANALYSIS FROM -1310/1 \*\*\***

***Liability exemptions***

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. 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 soil on property possessed or controlled by the person if the discharge originated from a source off of the property and other specified conditions are satisfied.

(w/ ) This bill specifies that the liability exemption for soil contamination that originates off of a property applies to hazardous substances in sediments on the property.

**\*\*\* ANALYSIS FROM -1311/1 \*\*\***

Under current law, a person who applies to DNR for an exemption from liability for hazardous substance discharges (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, 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 if later changes to the law would 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.

This bill modifies the voluntary party liability exemption so that the requirement to maintain and monitor the property as required by DNR only applies to a voluntary party while the voluntary party owns or controls the property. The bill specifies that the voluntary party liability exemption continues to apply to a voluntary party who does not own or control the property if the person who owns or controls the property fails to maintain and monitor the property as required by DNR.

**\*\*\* ANALYSIS FROM -0332/2 \*\*\***

Under current law, 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 an environmental investigation of the property is conducted; the property is cleaned up, except with respect to the discharge that originated off-site; 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; DNR determines in writing that the

voluntary party qualifies for the off-site exemption; and the voluntary party maintains and monitors the property as required by DNR.

(w/ff) This bill expands the voluntary party exemption from liability related to groundwater contamination from an off-site discharge so that it also applies to property on which the *soil* is contaminated by an off-site discharge.

**\*\*\* ANALYSIS FROM -1312/2 \*\*\***

Under current law, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of a discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, except with respect to a substance in groundwater that DNR determines will naturally attenuate, DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge except with respect to the substance that DNR has determined will naturally attenuate, the voluntary party maintains and monitors the property as required by DNR, and, if required by DNR, the voluntary party obtains insurance to cover the costs of cleanup if natural attenuation fails.

This bill provides that to qualify for the liability exemption for property on which DNR determines that natural attenuation will successfully complete the cleanup, a voluntary party who owns the property must provide access to the property for the purpose of determining whether natural attenuation has failed and, if so, to allow someone else clean up the property.

**\*\*\* ANALYSIS FROM -1309/1 \*\*\***

Under current law, a voluntary party is exempt from liability with respect to the existence of a hazardous substance on property if the hazardous substance is discovered in the course of a cleanup and if the voluntary party has obtained insurance to cover the costs of cleaning up hazardous substances discovered in the course of the cleanup. This bill eliminates this exemption from liability.

**\*\*\* ANALYSIS FROM -1815/7 \*\*\***

***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 makes several changes in the laws related to PECFA.

Under current law, this state issues revenue bonds to fund a portion of the PECFA costs. This bill increases the PECFA revenue bonding limit by \$100,000,000.

Under current law, PECFA provides reimbursement for some interest costs incurred by applicants. Under this bill, with specified exceptions, if an applicant submits the final PECFA claim later than the 60th day after completing all clean-up activities, the applicant is ineligible for reimbursement for interest costs incurred after that day; if clean-up activities are not completed within ten years after the investigation of the discharge was completed, the applicant is ineligible for reimbursement for interest costs incurred after that ten-year period; and if an investigation was completed more than five years after the applicant notified the department of commerce about the discharge or more than two years after this bill becomes ~~effective~~, whichever is later, the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods. These provisions limiting interest cost reimbursement do not apply to applicants who receive federal or state financial assistance, other than under PECFA, and who either are local governmental units or ~~are~~ engaged in brownfields redevelopment.

Under current law, DNR oversees the cleanup of high-risk sites under PECFA, and the department of commerce oversees the cleanup of other sites. Under this bill, a high-cost site is a site at which more than \$200,000 in eligible costs under PECFA have been incurred. Under the bill, the department of commerce oversees the cleanup of a site that becomes a high-cost site after November 30, 2001, once more than \$400,000 in eligible costs under PECFA have been incurred or more than seven years have elapsed since the investigation of the discharge was completed. The bill imposes requirements on DNR and the department of commerce to oversee cleanups so that clean-up activities are completed at high-cost sites within specified periods.

**\*\*\* ANALYSIS FROM -0662/3 \*\*\***

Under current law, farm petroleum product storage tanks of 1,100 gallons or less capacity are covered under PECFA only if the owner of the tank owns at least 35 acres of land devoted primarily to agricultural use that produced gross farm profits of at least \$6,000 in the year before the owner applies for PECFA reimbursement, or gross farm profits of at least \$18,000 during the three years before application.

This bill expands PECFA coverage of farm tanks so that a farm tank owner who formerly owned at least 35 acres of land devoted primarily to agricultural use is eligible if the owner submits a PECFA claim within one year after he or she

transferred ownership of the land and if the land produced gross farm profits of at least \$6,000 in the year before the owner transferred ownership of the land, or gross farm profits of at least \$18,000 during the three years before the owner transferred ownership of the land.

*(w/ff)* The bill also provides that a farm tank owner is only eligible for PECFA coverage if the farm tank is located on the parcel of land that meets the gross profits test.

**\*\*\* ANALYSIS FROM -1881/4 \*\*\***

***Other hazardous substances and environmental cleanup***

Under current law, DNR administers a program under which DNR provides <sup>Grants</sup> ~~brownfield site assessment grants~~ to local governmental units. ~~The grants may be used~~ for such activities as investigating environmental contamination, asbestos abatement activities, and removing abandoned underground storage tanks.

*(w/ff)* This bill transfers the brownfield site assessment grant program to the department of commerce.

Under current law, DNR administers the sustainable urban development zone program. Under the program, DNR provides funds to the city of Beloit, the city of Green Bay, the city of La Crosse, the city of Milwaukee, and the city of Oshkosh to investigate environmental contamination and to conduct cleanups of brownfields in those cities.

*(w/ff)* This bill eliminates the sustainable urban development zone program.

**\*\*\* ANALYSIS FROM -0980/2 \*\*\***

Current law authorizes the issuance of general obligation bonds to pay for actions taken to clean up the environment under specified programs administered by DNR. This bill increases the general obligation bonding authority for these clean-up programs by \$5,000,000. Of this amount, \$2,000,000 is allocated for cleanups in or adjacent to the Great Lakes or their tributaries.

**\*\*\* ANALYSIS FROM -0321/5 \*\*\***

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 where the environmental contamination has affected, or threatens to affect, groundwater or surface water. The loans are subsidized, so that recipients are not required to pay interest. ~~The budget bill for each fiscal biennium~~ establishes the present value of the subsidies that may be provided under the land recycling loan program during that ~~year~~ biennium. This

act

Each biennial

bill sets the present value of the land recycling loan program subsidies that may be provided during the 2001-03 biennium at \$9,110,000.

*under* \*\*\* **ANALYSIS FROM -0320/5** \*\*\* *DNR reimburses*

Under current law, DNR administers the dry cleaner environmental response program (DERP) which ~~provides reimbursement for~~ a portion of the costs of responding to discharges of dry cleaning solvents from dry cleaning facilities. DERP is funded by dry cleaning license and solvent fees paid by owners and operators of dry cleaning facilities. Under this bill, ~~DERP~~ *DNR* provides reimbursement for the costs of responding to discharges of other kinds of dry cleaning products, in addition to solvents.

Under current law, the deductible under DERP generally ranges from \$10,000 to \$76,000, depending on the amount of eligible costs. However, for a dry cleaning facility that has closed before the owner or operator applies under DERP, the deductible is increased. This bill eliminates the higher deductible for closed dry cleaning facilities.

Currently under DERP, the owner or operator of a dry cleaning facility on which construction began after October 4, 1997, is required to have implemented five specified pollution prevention measures. This requirement does not generally apply to older dry cleaning facilities. Under this bill, beginning one year after this bill takes effect, all dry cleaning facilities must have implemented three of the pollution prevention requirements in order to be eligible under DERP.

\*\*\* **ANALYSIS FROM -0333/1** \*\*\*

Current law authorizes DNR to cooperate with the federal environmental protection agency (EPA) in implementing the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also called the Superfund Act), which provides for the clean up of contaminated property. This bill authorizes DNR to accept the transfer of an interest in property that was acquired by EPA as part of a CERCLA cleanup. The bill also authorizes DNR to acquire an interest in property from any person as part of a cleanup conducted in cooperation with EPA if the acquisition is necessary to conduct the cleanup.

\*\*\* **ANALYSIS FROM -0321/5** \*\*\*

**WATER QUALITY**

\* Under the clean water fund program, this state provides financial assistance for projects for controlling water pollution, including sewage treatment plants. Financial assistance is typically provided in the form of a loan at a subsidized

*Each biennial act*  
 interest rate. ~~The budget bill 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 2001-03 biennium at \$90,000,000. The bill increases the general obligation bonding authority for the clean water fund program by \$65,000,000 when the bill is enacted and an additional \$20,000,000 on July 1, 2003. The bill also increases the revenue bonding authority for the clean water fund program by \$92,000,000.

Generally, under the clean water fund program, funds are allocated to a project as soon as the project is approved. However, if the amount of present value subsidy, general obligation bonding authority, or revenue bonding authority available for a biennium is 85% or less of the amount requested in a biennial finance plan prepared by DOA and DNR, funding is allocated on the basis of a priority list and funding may only be provided in a fiscal year to projects for which an application is submitted by the June 30 preceding that fiscal year. This bill reduces the threshold for allocating funds based on a priority list from 85% to 75%.

**\*\*\* ANALYSIS FROM -0286/3 \*\*\***

Under current law, clean water fund financial assistance for a collection system or interceptor in an unsewered area is only eligible for subsidized financial assistance under the clean water fund program if at least two-thirds of the initial flow will be for wastewater originating from residences in existence on October 17, 1972. This bill eliminates the reference to October 17, 1972, and provides that clean water fund financial assistance for a collection system or interceptor in an unsewered area is only eligible for subsidized financial assistance under the clean water fund program if at least two-thirds of the initial flow will be for wastewater originating from residences in existence on the date that is ten years before the day that DNR approves the facility plan for the project.

*add a space* → 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. *Each biennial act*  
~~The budget bill 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 2001-03 biennium at \$10,900,000.

**\*\*\* ANALYSIS FROM -0367/3 \*\*\***

Current law requires permits from DNR for certain storm water discharges, including discharges of storm water from a municipal storm sewer system serving an incorporated area with a population of 100,000 or more. ~~Federal law now requires states to require permits for additional municipal storm sewer systems.~~

This bill requires permits for additional municipal storm sewer systems, as required by federal law. Under ~~this~~ bill, the operator of a municipal storm sewer system must obtain a permit if one of the following applies:

1. The system serves an urbanized area, as determined by the U.S. bureau of the census.
2. The system serves an area with a population of 10,000 or more and a population density of 1,000 or more per square mile and DNR requires the operator to obtain a permit based on an evaluation of the system's impact on water quality.
3. DNR requires the operator to obtain a permit because the system contributes pollutants to an interconnected system that is required to obtain a permit.

**\*\*\* ANALYSIS FROM -0979/2 \*\*\***

Under current law, DNR, in conjunction with DATCP and local governmental units, administers a program to provide financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources. This bill increases the general obligation bonding authority for the nonpoint source program by \$22,400,000.

**\*\*\* ANALYSIS FROM -0407/2 \*\*\***

Under the nonpoint source program, a number of watersheds and lake areas were selected for priority watershed and priority lake projects. Under current law, no new priority watersheds or priority lakes may be selected.

(wA) The bill prohibits DNR from extending funding for a priority watershed or priority lake project beyond the funding termination date that was in effect on January 1, 2001, or, if no funding termination date was in effect on January 1, 2001, beyond the funding termination date first established after January 1, 2001.

**\*\*\* ANALYSIS FROM -0390/2 \*\*\***

Under the nonpoint source program, local governmental units annually apply for cost-sharing grants from DNR for new nonpoint source projects. A project is eligible for funding only if it is in a target area. An area may be a target area based on several criteria, including the need for compliance with performance standards established by DNR for nonpoint sources that are not agricultural. A project qualifies for funding only if it cannot be conducted with funding provided by DATCP under the soil and water resource management program.



This bill adds that an area may be a target area under the nonpoint source program based on the need for compliance with performance standards established by DNR for nonpoint sources that are agricultural. The bill also provides that a project qualifies for funding if DNR, in consultation with DATCP, determines that funding under the soil and water resource management program is insufficient to fund the project.

*DNR awards*  
\*\*\* ANALYSIS FROM -1813/4 \*\*\*

\*\*\* ANALYSIS FROM -0979/2 \*\*\*

Under current law, DNR administers the municipal flood control and riparian restoration program, which provides grants that pay a portion of the costs of facilities and structures for the collection and transmission of storm water and of the purchase of flowage and conservation easements on lands within floodways. DNR also administers the urban nonpoint source water pollution abatement and storm water management program, which provides grants for projects that manage urban storm water and runoff from urban areas to minimize flooding and protect groundwater. The bill increases the general obligation bonding authority for the two programs by \$11,000,000.

*DNR awards*  
\*\*\* ANALYSIS FROM -2295/2 \*\*\*

**VOLUNTARY ENVIRONMENTAL IMPROVEMENT**

This bill creates the green tier program, administered by DNR. The green tier program is designed to improve the environmental performance of public and private entities through the provision of incentives. There are three tiers in the green tier program. A participant may participate in more than one tier.

A public or private entity that is subject to environmental laws (regulated entity) may participate in tier I of the green tier program ~~if the regulated entity satisfies several requirements~~. To participate, a regulated entity must conduct an environmental performance evaluation ~~that satisfies requirements specified in the bill~~ or have an environmental management system ~~that satisfies requirements specified in the bill~~. An environmental performance evaluation is a systematic and ~~objective~~ review of the effects of a facility on the environment, including an evaluation of compliance with one or more environmental laws. An environmental management system is a set of procedures designed to evaluate the effects of a facility on the environment and to achieve improvements in those effects.

To participate in the program, the regulated entity must submit a report to DNR describing the results of the environmental performance evaluation or

*under*  
*This*  
~~STOP~~

*E*

This bill adds that an area may be a target area under the nonpoint source program based on the need for compliance with performance standards established by DNR for nonpoint sources that are agricultural. The bill also provides that a project qualifies for funding if DNR, in consultation with DATCP, determines that funding under the soil and water resource management program is insufficient to fund the project.

*under* \*\*\* DNR awards ANALYSIS FROM -1813/4 \*\*\*

\*\*\* ANALYSIS FROM -0979/2 \*\*\*

Under current law, DNR administers the municipal flood control and riparian restoration program, which provides grants that pay a portion of the costs of facilities and structures for the collection and transmission of storm water and of the purchase of flowage and conservation easements on lands within floodways. DNR also administers the urban nonpoint source water pollution abatement and storm water management program, which provides grants for projects that manage urban storm water and runoff from urban areas to minimize flooding and protect groundwater. ~~The~~ bill increases the general obligation bonding authority for the two programs by \$11,000,000.

*under*

*This*

*START*

\*\*\* ANALYSIS FROM -2295/2 \*\*\*

**VOLUNTARY ENVIRONMENTAL IMPROVEMENT**

This bill creates the green tier program, administered by DNR. The green tier program is designed to improve the environmental performance of public and private entities through the provision of incentives. There are three tiers in the green tier program. A participant may participate in more than one tier.

A public or private entity that is subject to environmental laws (regulated entity) may participate in tier I of the green tier program ~~if the regulated entity satisfies several requirements~~. To participate, a regulated entity must conduct an environmental performance evaluation ~~that satisfies requirements specified in the bill~~ or have an environmental management system ~~that satisfies requirements specified in the bill~~. An environmental performance evaluation is a systematic ~~and objective~~ review of the effects of a facility on the environment, including an evaluation of compliance with one or more environmental laws. An environmental management system is a set of procedures designed to evaluate the effects of a facility on the environment and to achieve improvements in those effects.

To participate in the program, the regulated entity must submit a report to DNR describing the results of the environmental performance evaluation or

describing findings from the environmental management system. At the time of submitting the report, more than two years must have elapsed since the regulated entity was prosecuted or issued a citation for violating an environmental law. The report must describe any violations of environmental laws revealed by the environmental performance evaluation or environmental management system and the actions taken or proposed to be taken to correct the violations. If the regulated entity proposes to take more than 90 days to correct the violations, the regulated entity must submit a proposed compliance schedule.

~~The bill requires DNR to provide public notice and a period for public comment on any compliance schedule proposed by a regulated entity. After that period, DNR may approve the compliance schedule as submitted or propose a different compliance schedule. If the parties cannot agree on a compliance schedule, DNR may impose a compliance schedule, but DNR's decision may be appealed by the regulated entity.~~

The bill generally prohibits this state from bringing an action to collect a forfeiture (a civil monetary penalty) for a violation of an environmental law that is disclosed by a regulated entity that satisfies the requirements for participation in tier I of the green tier program if the regulated entity corrects the violation within the 90-day period or within the time provided in <sup>a</sup> the compliance schedule. The bill authorizes this state to begin an action to collect forfeitures from a regulated entity that satisfies the requirements for participation in tier I of the green tier program at any time under several circumstances, including cases in which a violation presents an imminent threat or may cause serious harm to public health or the environment or in which DNR discovers the violation before the regulated entity reports the violation.

that  
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approved  
by  
DNR

~~The bill does not prevent the state from prosecuting a criminal violation by a regulated entity that qualifies for participation in tier I of the green tier program, but the bill requires DNR and DOJ to take into account the efforts of the regulated entity to comply with environmental laws in deciding whether to begin a criminal enforcement action and what penalty should be sought.~~

~~The bill requires DNR to provide public recognition to an entity that participates in tier I of the green tier program if the participant conducts an environmental performance evaluation at least every two years.~~

~~To participate in tier II of the green tier program, an applicant must satisfy several requirements. The bill authorizes groups of public or private entities to~~

An entity or a group of entities may

~~participate in tier II.~~ If a group applies, all of the requirements for participation apply to all of the members of the group.

At the time of application for tier II, more than five years must have elapsed since the applicant was convicted of a criminal violation of an environmental law that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment; more than three years must have elapsed since a civil judgment was entered against the applicant for a violation of an environmental law that resulted in substantial harm to public health or the environment; and more than two years must have elapsed since the applicant was prosecuted or issued a citation for violating an environmental law.

To participate in tier II, an applicant must also have implemented or must commit itself to implementing an environmental management system ~~that satisfies specified requirements.~~ The applicant must specify objectives for improving its environmental performance or for voluntarily restoring, enhancing, or preserving natural resources. The applicant must also commit itself to conducting annual audits of its environmental management system and to submitting reports to DNR on those audits.

The bill requires DNR to provide public recognition to an entity that participates in tier II of the green tier program. The bill also requires DNR to assign one of its employees to serve as the contact with DNR for a participant in tier II for all licenses and permits that the participant must obtain from DNR. After a participant in tier II implements an environmental management system, DNR must conduct inspections of the participant's facilities that are covered under green tier at the lowest frequency that is permitted under DNR's rules.

~~To participate in tier III of the green tier program, an applicant must satisfy several requirements.) The bill authorizes groups of public or private entities to participate in tier III.~~ If a group applies, all of the requirements for participation apply to all of the members of the group. A participant in tier III enters into a green tier contract with DNR. The contract specifies the participant's commitments and the incentives that will be provided to the participant.

At the time of application for tier III, more than ten years must have elapsed since the applicant was convicted of a criminal violation of an environmental law that resulted in substantial harm to public health or the environment or that presented an imminent threat to public health or the environment; more than five years must have elapsed since a civil judgment was entered against the applicant for a violation

An entity or a group of entities may

of an environmental law that resulted in substantial harm to public health or the environment; and more than two years must have elapsed since the applicant was prosecuted or issued a citation for violating an environmental law.

To participate in tier III, an applicant must have implemented an environmental management system ~~that satisfies specified requirements.~~ The applicant must commit itself to having an outside environmental auditor ~~approved by DNR~~ conduct annual audits of the environmental management system and to submitting reports on those audits to DNR. The applicant must also commit itself to annually conducting ~~or having an outside auditor conduct~~ audits of its compliance with environmental laws and to submitting the results of those audits to DNR. <sup>of its pollutants</sup>

Finally, to participate in tier III, an applicant must demonstrate that it has a record of superior environmental performance and describe the measures that it proposes to take to maintain and improve its superior environmental performance. “Superior environmental performance” means that an entity ~~limits the pollutants that it releases, or in some other way~~ minimizes <sup>the</sup> its negative effects on the environment or human health to an extent that is greater than is required by law ~~that an entity minimizes the negative effects that the raw materials it uses, or the products or services it produces or provides, have on the environment or human health to an extent that is greater than is required by law~~ or that an entity voluntarily engages in restoring, enhancing, or preserving natural resources.

If DNR determines that an applicant qualifies for participation in tier III, DNR may enter into negotiations with the applicant about a green tier contract. DNR may permit interested third parties to participate in the negotiations. If the parties reach an agreement, they may enter into a green tier contract with a term of not more than five years, subject to renewal for terms of not more than five years each. The bill authorizes DNR to promulgate rules specifying incentives that may be provided to participants in tier III.

The bill establishes a grant program under which the department of commerce makes grants to nongovernmental organizations to help those organizations develop the capacity to participate as interested third parties in the green tier program and makes grants to assist in the development of environmental management systems.

law requiring a registrant

Currently the requirement to pay an environmental impact

**OTHER ENVIRONMENT**

Under current law, a registrant is required to pay an environmental impact fee of \$6 upon registering a new motor vehicle with DOT or upon applying for a new certificate of title following a transfer of a vehicle. The environmental impact fees are credited to the environmental fund and are earmarked for environmental management activities. The fee expires on June 30, 2001. This bill extends that expiration date to September 30, 2003.

Insert 0363/5  
(see p. 45)

**\*\*\* ANALYSIS FROM -0359/1 \*\*\***

Current law generally requires a person to obtain a construction permit from DNR before beginning construction of a stationary source of air pollution. This bill authorizes DNR to issue general construction permits, each of which would cover numerous similar stationary sources of air pollution.

**\*\*\* ANALYSIS FROM -1838/1 \*\*\***

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 amount of the fee is required to be based, among other things, on actual emissions of pollutants from the source in the preceding five years, using a five-year rolling average. Under this bill, the fee must be based on actual emissions of pollutants from the source in the preceding year, rather than the preceding five years.

**\*\*\* ANALYSIS FROM -1819/5 \*\*\***

This bill requires DNR to provide grants to assist local governmental units to establish regional recycling programs.

**\*\*\* ANALYSIS FROM -1818/1 \*\*\***

Under current law, DNR administers a financial assistance program to assist local governmental units that are responsible for recycling programs called responsible units with costs related to operating those programs. Generally the amount of financial assistance that a responsible unit receives is based on the amount of financial assistance that the responsible unit received, or would have received, for 1999.

This bill requires DNR to submit to DOA a proposal for changing the method for determining the amount of financial assistance provided for recycling programs to encourage regional recycling programs.

**\*\*\* ANALYSIS FROM -0610/3 \*\*\***

title?

governmental

LPS: Please Keep analysis #'s

**GAMBLING**

Currently, the administrator of the lottery (administrator) is required to pay a lottery prize to the holder of a winning lottery ticket or to a person who is designated to receive the prize on behalf of a minor. Under current law, the administrator may pay a lottery prize to another person under a court order or to the estate of a deceased prize winner.

(nff) Also under current law, if the value of a lottery prize is equal to or greater than \$1,000, the administrator is required to report to DOR the name, address, and social security number or federal income tax number of the person to whom the prize will be paid or to the person whom the prize has been assigned, to determine whether the person is delinquent in the payment of state taxes or court-ordered child support. If the person's lottery prize is payable in installments, the administrator must also report the person's name, address, and social security number or federal income tax number to DWD to determine whether the person is obligated to pay court-ordered child, spousal, or family support and to each clerk of circuit court in this state to determine whether the person owes any court-ordered fines, assessments, or restitution.

This bill requires that, if the holder of a single winning ticket is more than one person and the total amount of the prize is equal to or greater than \$1,000, those persons must petition a circuit court for an order declaring each person's interest in the lottery prize. After a court has issued the order, the administrator must pay each person whom a court has determined has an interest in the prize, his or her share of the prize as specified in the court order. Finally, the bill requires the administrator to report to DOR the name, address, and social security number or federal income tax number of those person's who will receive a share of a lottery prize under the court order and, if the person will receive payment of the prize in installments, to report to DWD and each clerk of circuit court in this state the person's name, address, and social security number or federal income tax number.

\*\*\* ANALYSIS FROM -1706/5 \*\*\*

**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Under current federal and state law, (MA) is a jointly-funded, federal-state program to provide health care services to eligible low-income individuals; federal medicaid funds (known as "federal financial participation") are provided to match state funds expended for MA. Prescription drug manufacturers enter into

*Medical Assistance*

*lottery*  
*of the lottery*

*\**  
*of*

agreements with the federal government to provide rebates for prescription drugs purchased under MA.

*hoff* Under current state law, pharmacies and pharmacists that are certified providers of MA services are reimbursed at a rate established by DHFS for providing certain prescription drugs to MA recipients.

*this* Under ~~the~~ bill, DHFS must request from the ~~secretary of the~~ federal department of health and human services a waiver of federal medicaid laws to permit DHFS to conduct a project to expand MA eligibility solely for the purpose of purchasing prescription drugs for persons who are ~~aged~~ at least 65, who have not had outpatient prescription drug coverage from any source other than ~~under~~ MA for 12 months, and whose annual household incomes do not exceed 185% of the federal poverty line ~~for a family the size of the persons' eligible families~~. Under the waiver, which requires that the project be cost neutral, the expanded MA eligibility would ~~entitle~~ an eligible person with a household income of up to 155% of the federal poverty line, after paying a \$25 annual enrollment fee and after paying specified deductible amounts for prescription drugs calculated at the pharmacy discount rate, ~~as defined in the bill~~, to purchase prescription drugs for copayments *amounts* as specified in the bill. ~~The~~ pharmacy or pharmacist who sells ~~the~~ <sup>a</sup> drug at ~~this~~ reduced price *the* receives reimbursement for the difference between the copayment and the pharmacy discount rate amount from ~~DHFS~~ <sup>would</sup> state general purpose revenues and federal medicaid moneys. ~~For~~ persons with household incomes over 155% but less than 186% of the federal poverty line, however, ~~the benefit would be limited to their~~ *only* eligibility to purchase prescription drugs at the pharmacy discount rate. Under the bill, this project may not be implemented if the federal government creates a national prescription drug benefit program for seniors that would provide similar benefits to a similar population ~~and unless~~ DHFS first secured approval from DOA and ~~the joint committee on finance of the legislature~~. JCF

*In addition* The bill requires that DOA and DHFS ~~together~~ work to develop, in conjunction with states ~~other than Wisconsin~~ and with associations, a multistate purchasing group ~~for the negotiation~~ with prescription drug manufacturers of MA prescription drug rebate agreements *for* that result in <sup>for</sup> greater contributions by manufacturers to rebates for prescription drugs than those achievable under federal law. Under the bill, DOA must also contract with a private entity to administer a discount program for the purchase of prescription drugs that would generally be available to anyone, regardless of age or income.

*If the waiver is granted*

*would be entitled*

*eligible*

*must*

*In addition*

*The*

*to negotiate*



The bill requires that DHFS work with DOA to contract with a private entity for the bulk purchase and mail order delivery of prescription drugs for MA recipients who voluntarily participate in the program and who have chronic conditions. Further, DHFS ~~must~~ <sup>discount</sup> ~~together with DOA, promote, on the state's Internet site and in health information,~~ <sup>must</sup> private prescription drug assistance plans that offer free and reduced-price drugs and prescription drug discounts to members. DHFS must inform tribes, ~~federally qualified health centers (as defined in the bill),~~ <sup>Keep commo-</sup> and other entities that are eligible for a federal prescription drug discount program about the ~~eligibility,~~ <sup>and</sup> and provide technical assistance to the entities in applying for and implementing benefits under the program. Lastly, DHFS must analyze health care data in Wisconsin so as to identify areas that could be eligible for and benefit from establishment of federally qualified health centers and must provide entities in those areas with information about and technical assistance in developing the centers.

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program

\*\*\* ANALYSIS FROM -1939/5 \*\*\*

Under current law, DWD administers the ~~food stamp program, the Wisconsin works (W-2) program, and the~~ eligibility determination aspect of ~~the MA program.~~ DHFS administers all other aspects of ~~the MA program.~~ Currently, DWD contracts with county departments of social services ~~and county departments of~~ (human services (county departments) to determine the eligibility of individuals for ~~the medical assistance (MA) program, the food stamp program, and, in most cases, the Wisconsin works (W-2) program.~~ Under these contracts, DWD reimburses the county departments for the reasonable costs of determining the eligibility of individuals for each program. The amount that is reimbursed to each county department is calculated using a formula based on each county's workload and the amount of available state and federal moneys.

<sup>also</sup> ~~Also under current law, DWD is required to investigate suspected fraudulent activity on the part of individuals who receive food stamp benefits or MA benefits or who participate in the W-2 program and to reduce errors in the payment of benefits under each program.~~ In addition to the reimbursements made to counties for determining the eligibility of individuals for the MA, food stamp, and W-2 programs, DWD makes payments to each county and federally recognized American Indian tribe administering the programs for the administrative costs of activities that are ~~designed to reduce fraud and errors under each program.~~

This bill requires DWD and DHFS, jointly, to contract with county departments to reimburse the county departments for the reasonable costs of determining the

eligibility of individuals for ~~the MA program~~. Under the bill, only DWD makes the payments for reimbursement to the county departments but the payments are funded, in part, by an appropriation to DHFS. ~~The bill also transfers certain employees to be identified by DWD and DHFS from DWD to DHFS. Under the bill, DWD is still required to reimburse the county departments for the costs of determining the eligibility of individuals for the food stamp and W-2 programs.~~

*(m)* The bill requires DHFS to establish its own program to investigate possible fraud on the part of MA recipients and to reduce errors in the payments of MA or, in the alternative, to contract with DWD to conduct these activities as part of DWD's ~~current fraud investigation and error reduction activities~~. Under the bill, DWD may only conduct fraud investigation and error reduction activities relating to the MA program under a contract with DHFS. The bill continues to require DWD to investigate food stamp and W-2 fraud and to make payments to county departments and Indian tribes for costs of reducing fraud and errors in the food stamp and W-2 programs.

**\*\*\* ANALYSIS FROM -1627/4 \*\*\***

Under current federal medicaid law, public funds ~~that are not federal funds, that are~~ transferred to the state, and ~~that are~~ expended for MA purposes may be considered as the state's share ~~in~~ claiming federal financial participation.

This bill creates ~~a separate, nonlapsable trust fund, designated as the~~ MA trust fund. ~~1) moneys received as federal financial participation to match public moneys transferred to the state or certified by DHFS as the state share of financial participation for MA payments related to nursing homes; and 2) public moneys transferred to the state or certified by DHFS as the state and federal share of financial participation for MA payments related to nursing homes. The moneys in the MA trust fund are appropriated to meet costs of MA and the administrative costs associated with augmenting federal financial participation.~~

Under current law, DHFS may, ~~in each fiscal year,~~ distribute up to \$38,600,000, received as federal financial participation to supplement ~~under MA in~~ payments ~~under~~ to reduce <sup>the</sup> operating deficits of county, city, village, or town nursing homes. DHFS must also distribute for this purpose additional moneys received as federal financial participation that were not anticipated before enactment of the biennial budget act or before enactment of other legislation that affects the appropriation of such federal moneys. ~~These supplemental payments are distributed under a method that considers the size of a nursing home's operating deficit and an agreement by the~~

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*The fund consists of*

*to DHFS*

*in each fiscal year*

affected county, city, town, or village to provide funds to match the federal moneys. DHFS must revise the method, for approval by JCF, if the federal department of health and human services approves a lesser amount of federal moneys for expenditure. If the federal department of health and human services disallows use of the federal moneys for the purpose of these supplemental payments, DHFS must reduce allocations to counties, and a city, town, or village that owns or operates a nursing home that has received funds must reimburse the county in which the city, town, or village is located.

~~This bill~~ <sup>the bill</sup> as of July 1, 2000, retroactively eliminates ~~in the program to supplement MA payments to reduce operating deficits of county, city, village, or town nursing homes,~~ the requirement that DHFS distribute for this purpose additional, unanticipated moneys received as federal financial participation and increases, to up to \$40,100,000, the amount of federal financial participation that may be distributed. Further, the bill specifies amounts that may be distributed, beginning in state fiscal year 2001-02, depending on whether or not federal financial participation in the amount of at least \$115,200,000 is received.

\*\*\* ANALYSIS FROM -2026/2 \*\*\*

\*\*\* ANALYSIS FROM -2027/2 \*\*\*

Under current law, DHFS administers the badger care health care program (BadgerCare) under a federal waiver from the federal ~~secretary~~ <sup>department</sup> of health and human services (federal ~~secretary~~). BadgerCare provides health care coverage to certain low-income families and to certain low-income children who do not reside with a parent. ~~Under current law,~~ <sup>department</sup> to be eligible for BadgerCare, a family or child must be without access to employer-subsidized health care coverage for a ~~time~~ <sup>period</sup> specified by DHFS by rule. ~~The time period may not exceed 18 months.~~

This bill requires DHFS, ~~not later than January 1, 2002,~~ to request a waiver from the federal ~~secretary~~ <sup>department</sup> to ~~increase the period of time~~ <sup>extend</sup> a family or child is required to be without access to employer-subsidized health care coverage to be eligible for BadgerCare to six months except under certain circumstances. ~~One of these~~

~~circumstances is that although the family or child had access to employer-subsidized health care in the previous 5 months, the coverage was terminated, and DHFS determines that the termination was not the fault of the family or child. The waiver must request that under these circumstances, the period of time a family or child must be without health care coverage be 45 days. Another of these circumstances is that if the reason the family or child does not have access to employer-subsidized~~

department

department

extend

WHY IS A  
DHFS CAN NEGOT  
SPECIFY 6  
MONTHS  
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to be eligible for BadgerCare is

health care is that the family or child has exhausted health care continuation coverage available under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) or because an employer has terminated employment. The waiver must request that under these circumstances, the period of time a family or child must be without health care coverage to be eligible for BadgerCare be at least three months.

→ *The* This bill also requires DHFS ~~not later than January 1, 2002~~ to request a second waiver from the federal secretary to permit DHFS, ~~provide~~ prior to enrolling ~~the~~ family or child in BadgerCare, to verify whether a family or child has had access to employer-subsidized health care. *the*

**\*\*\* ANALYSIS FROM -0193/3 \*\*\***

Under current law, DHFS certifies persons ~~or facilities~~ that meet certain criteria as MA providers and pays for services and items that MA recipients receive from the providers. Currently, DHFS is authorized or required to enforce numerous sanctions, including decertification or suspension from ~~the MA program~~, against providers who fail to comply with MA requirements or to whom MA payments have been improperly or erroneously made or overpayments have been made. To implement these sanctions, DHFS must provide written notice, a fair hearing, and a written decision. Currently, ~~prohibitions exist against~~ fraud in applications for, rights to, and conversion of MA benefits or payments. These prohibitions are punishable by fines and imprisonment. ~~Also~~ <sup>Also</sup> under current law, if a provider who is liable for repayment of improper or erroneous MA payments or overpayments sells or otherwise transfers ownership of his or her business, the seller and transferee are each liable for the repayment. The transferee must contact DHFS and ascertain whether the seller has an outstanding amount owing. DHFS may bring an action to compel payment against either the ~~buyer~~ or transferee if a sale or other transfer occurs, and the amount has not been repaid.

*is prohibited*

*Seller*

This bill authorizes DHFS, after providing reasonable notice and the opportunity for a hearing, to charge a fee to an MA provider that has repeatedly been subject to recoveries of MA payments because of the provider's failure to follow ~~identical or similar~~ billing procedures or to follow other ~~identical or similar~~ MA requirements. The fee must be used to defray ~~in part~~ the costs of audits and investigations by DHFS of federal medicaid or MA violations and to verify that services have been provided and the appropriateness and accuracy of reimbursement claims. The fee may not exceed \$1,000 or 200% of the amount of any

~~repeated~~ recovery, whichever is greater. The bill permits DHFS to recover any part of such a fee that is not timely paid by offsetting the fee against any MA payment owed to the provider ~~and also authorizes fee collection by the attorney general~~. ~~Further, failure to timely pay a fee, other than by offsetting the fee against the MA payment owed, is grounds for MA decertification.~~

The bill authorizes DHFS to require certain MA providers, as a condition of certification, to file with DHFS a surety bond, payable to DHFS, ~~under terms and in an amount specified by DHFS by rule~~, that would reasonably pay the amount of a recovery and DHFS' <sup>s</sup> costs to pursue recovery of overpayments or to investigate and pursue allegations of false claims or statements. Providers who are required to file the surety bonds are those who provide MA services, as specified by DHFS by rule, for which providers have demonstrated significant potential to violate fraud prohibitions, to require recovery of overpayments, or to need certain additional sanctions.

<sup>also</sup> (w/ 9) The bill authorizes DHFS, ~~if it first makes specified findings~~, to limit the number of providers of particular services that may receive MA certification or limit the amount of resources, including employees and equipment, that a certified provider may use to provide MA services and items.

The bill changes numerous provisions relating to procedures for the recovery by DHFS of MA overpayments or improper or erroneous payments, including all of the following:

1. Hearing ~~opportunity~~ requirements are eliminated and, instead, a provider has the opportunity to present information and argument to DHFS staff.
2. A deadline for <sup>the</sup> payment of recoveries is established, and payment of interest on delinquent amounts is required.

The bill eliminates DHFS' <sup>s</sup> general authority to suspend a provider, but instead authorizes DHFS, if certain criteria are met, to suspend certification for a provider pending a hearing on whether the provider must be decertified for violation of federal or state laws.

The bill requires <sup>providers to allow DHFS</sup> access, ~~upon request by DHFS~~, to provider records and specifies that a provider's failure to provide access constitutes grounds for decertification.

With respect to liability for repayment of improper or erroneous payments or overpayments of a provider who sells or transfers ownership of his or her business, the bill eliminates provisions that confer liability on both the transferor and the