State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2402/1
ALL:all:all

2001 SENATE BILL 55

February 20, 2001 – Introduced by JOINT COMMITTEE ON FINANCE, by request of Governor Scott McCallum. Referred to Joint committee on Finance.

AN ACT **relating to:** state finances and appropriations, constituting the executive budget act of the 2001 legislature.

Analysis by the Legislative Reference Bureau

INTRODUCTION

This bill is the "executive budget bill" under section 16.47 (1) of the statutes. It contains the governor's recommendations for appropriations for the 2001–2003 fiscal biennium.

The bill repeals and recreates the appropriation schedule in chapter 20 of the statutes, thereby setting the appropriation levels for the 2001–2003 fiscal biennium. The descriptions that follow relate to the most significant changes in the law that are proposed in the bill. In most cases, changes in the amounts of existing spending authority and changes in the amounts of bonding authority under existing bonding programs are not discussed.

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

GUIDE TO THE BILL

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

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

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

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

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

XX01 Administration.
XX02 Adolescent pregnancy prevention and pregnancy services board.
XX03 Aging and long–term care board.
XX04 Agriculture, trade and consumer protection.
XX05 Arts board.
XX06 Boundary area commission, Minnesota–Wisconsin.
XX07 Building commission.
XX08 Child abuse and neglect prevention board.
XX09 Circuit courts.
XX10 Commerce.
XX11 Corrections.
XX12 Court of appeals.
XX13 District attorneys.
XX14 Educational communications board.
XX15 Elections board.
XX16 Employee trust funds.
XX17 Employment relations commission.
XX18 Employment relations department.
XX19 Ethics board.
XX20 Financial institutions.
XX21 Governor.
XX22 Health and Educational Facilities Authority.
XX23 Health and family services.
XX24 Higher educational aids board.
XX25 Historical society.
XX26 Housing and Economic Development Authority.

XX27 Insurance.
XX28 Investment board.
XX29 Joint committee on finance.
XX30 Judicial commission.
XX31 Justice.
XX32 Legislature.
XX33 Lieutenant governor.
XX34 Lower Wisconsin state riverway board.
XX35 Medical College of Wisconsin.
XX36 Military affairs.
XX37 Natural resources.
XX38 Personnel commission.
XX39 Public defender board.
XX40 Public instruction.
XX41 Public lands, board of commissioners of.
XX42 Public service commission.
XX43 Regulation and licensing.
XX44 Revenue.
XX45 Secretary of state.
XX46 State fair park board.
XX47 Supreme Court.
XX48 Technical college system.
XX49 Technology for educational achievement in Wisconsin board.
XX50 Tobacco control board.
XX51 Tourism.
XX52 Transportation.
XX53 Treasurer.
XX54 University of Wisconsin Hospitals and Clinics Authority.
XX55 University of Wisconsin Hospitals and Clinics Board.
XX56 University of Wisconsin System.
XX57 Veterans affairs.
XX58 Workforce development.
XX59 Other.

For example, for general nonstatutory provisions relating to the historical society, see SECTION 9125. For any agency that is not assigned a two–digit identification number and that is attached to another agency, see the number of the latter agency. For any other agency not assigned a two–digit identification number or any provision that does not relate to the functions of a particular agency, see number "59" (other) within each type of provision.

In order to facilitate amendment drafting and the enrolling process, separate section numbers and headings appear for each type of provision and for each state agency, even if there are no provisions included in that section number and heading.

Section numbers and headings for which there are no provisions will be deleted in enrolling and will not appear in the published act.

Following is a list of the most commonly used acronyms appearing in the analysis:

DATCP ... Department of Agriculture, Trade and Consumer Protection
DER ..... Department of Employment Relations
DETF ..... Department of Employee Trust Funds
DFI ..... Department of Financial Institutions
DHFS .... Department of Health and Family Services
DMA ..... Department of Military Affairs
DNR ..... Department of Natural Resources
DOA ..... Department of Administration
DOC ..... Department of Corrections
DOJ ..... Department of Justice
DOR ..... Department of Revenue
DORL .... Department of Regulation and Licensing
DOT ..... Department of Transportation
DPI ..... Department of Public Instruction
DVA ..... Department of Veterans Affairs
DWD ..... Department of Workforce Development
JCF ..... Joint Committee on Finance
OCI ..... Office of the Commissioner of Insurance
PSC ..... Public Service Commission
UW ..... University of Wisconsin
WHEDA .. Wisconsin Housing and Economic Development Authority
WHEFA ... Wisconsin Health and Educational Facilities Authority

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AGRICULTURE

AGRICULTURAL PRODUCER SECURITY

This bill changes the laws concerning milk contractors, grain dealers, grain warehouse keepers, and vegetable contractors (contractors). A milk contractor is a person who buys milk from milk producers or who markets milk on behalf of producers. A grain dealer is a person who buys grain from grain producers or who markets grain on behalf of producers. A grain warehouse keeper is a person who operates a warehouse in which the person stores grain that belongs to someone else. A vegetable contractor is a person who buys vegetables from vegetable producers for use in food processing or who markets vegetables for use in food processing on behalf of producers.

Current law requires certain contractors to post security with DATCP to provide payment to producers in case the contractors default on payments owed to producers. This bill establishes a segregated fund, called the agricultural producer security fund (the fund), into which certain contractors must pay, and out of which

DATCP provides payment to producers when those contractors default on payments owed to producers. The statutory changes concerning agricultural producer security take effect in 2002.

Milk contractors

Under current law, persons who operate dairy plants generally must be licensed by DATCP. There is no separate licensing requirement for milk contractors. Under current law, DATCP may not issue a license for a dairy plant unless the applicant's financial condition is such as to reasonably ensure prompt payment to milk producers. If a dairy plant operator does not meet minimum financial standards, the operator must file a bond or other security with DATCP or must provide for a trustee who receives payment for all dairy products produced by the dairy plant and who pays producers.

This bill requires a milk contractor to obtain a license from DATCP. A licensed milk contractor that files financial statements which show that the milk contractor does not meet minimum financial standards, or that does not file annual and quarterly financial statements, must contribute to the fund unless the contractor is disqualified from the fund. If a milk contractor that contributes to the fund defaults on payments to producers, DATCP pays default claims from the fund.

A milk contractor that is required to file security when first licensed (because the contractor has negative equity) is disqualified from the fund until DATCP releases the security. A milk contractor is disqualified from the fund if DATCP denies, suspends, or revokes the contractor's license. DATCP may also disqualify a milk contractor from the fund for other reasons, such as failing to pay required fund assessments. If DATCP disqualifies a milk contractor from the fund and the milk contractor files a financial statement that shows that the contractor does not meet minimum financial standards, the milk contractor may not act as a milk contractor in this state.

The bill establishes the formula for determining the amount of the assessments that must be paid by a milk contractor that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on a milk contractor's financial condition, the amount spent to procure milk from producers, and the number of consecutive years that the contractor has contributed to the fund.

The bill requires a milk contractor to maintain insurance that covers all milk and milk products in the possession of the milk contractor.

As under current law, the bill requires a milk contractor to pay a monthly fee to DATCP, based on the amount of milk that the milk contractor procures. Under the bill, if the balance in the fund contributed by milk contractors exceeds $4,000,000 on any February 28, DATCP must use 50% of the excess to reduce these monthly fees.

Grain dealers

Under current law, most grain dealers are required to be licensed. If a grain dealer does not meet minimum financial standards, the grain dealer is required to file security with DATCP.

Under this bill, a grain dealer must obtain a license from DATCP unless the dealer pays cash on delivery for all producer–owned grain that the dealer procures or the dealer buys grain solely for the dealer's own use as feed or seed and spends less than $400,000 per license year for that grain. A grain dealer that is required to be licensed must contribute to the fund, unless the dealer is disqualified. If a grain dealer that contributes to the fund defaults on payments to producers, DATCP pays default claims from the fund.

A grain dealer that is required to file security (because the dealer has negative equity) with DATCP when the grain dealer is first licensed under this bill is disqualified from the fund until DATCP releases the security. A grain dealer is disqualified from the fund, and required to pay cash on delivery for grain, if DATCP denies, suspends, or revokes the dealer's license or if DATCP disqualifies the dealer for cause.

The bill establishes the formula for determining the amount of the assessments that must be paid by a grain dealer that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on a grain dealer's financial condition, the amount spent to procure grain from producers, the amount incurred under deferred payment contracts, and the number of consecutive years that the dealer has contributed to the fund.

The bill requires a grain dealer to maintain insurance to cover all grain in the custody of the grain dealer.

Under the bill, grain dealer license fees vary based on the amount that the grain dealer pays for grain during a license year and the number of trucks used to haul grain. Under the bill, if the balance in the fund contributed by grain dealers exceeds $2,000,000 on any June 30, DATCP must use 50% of the excess to reduce license fees.

Grain warehouse keepers

Current law requires a grain warehouse keeper that holds 50,000 or more bushels of grain for others at any time to obtain a license from DATCP. A grain warehouse keeper that does not satisfy minimum financial standards must file security with DATCP.

Under this bill, a licensed grain warehouse keeper is required to contribute to the fund, unless the warehouse keeper is disqualified. If a grain warehouse keeper that contributes to the fund fails to deliver grain to depositors upon demand, DATCP pays default claims from the fund.

A grain warehouse keeper that is required to file security (because the warehouse keeper has negative equity) with DATCP when the warehouse keeper is first licensed under this bill is disqualified from the fund until DATCP releases the security. A grain warehouse keeper is also disqualified from the fund if DATCP denies, suspends, or revokes the warehouse keeper's license.

The bill establishes the formula for determining the amount of the assessments that must be paid by a grain warehouse keeper that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on a warehouse keeper's financial condition, the capacity of the warehouses, and the number of consecutive years that the warehouse keeper has contributed to the fund.

The bill specifies annual grain warehouse keeper fees that are based on combined warehouse capacity. Under the bill, if the balance in the fund contributed by grain warehouse keepers exceeds $300,000 on any June 30, DATCP must use 12.5% of the excess to reduce license fees.

Vegetable contractors

Current law requires a vegetable contractor to obtain a registration certificate from DATCP. A vegetable contractor that does not meet minimum financial standards must file security with DATCP unless the contractor makes payment on delivery for all vegetables obtained from producers or the contractor is a producer–owned cooperative doing business solely with its producer–owners.

This bill requires a vegetable contractor to obtain a license from DATCP. A licensed vegetable contractor must contribute to the fund unless the contractor makes payment on delivery for all vegetables obtained from producers, the contractor is a producer–owned cooperative that procures vegetables only from its producer owners, or the contractor is disqualified. If a vegetable contractor that contributes to the fund defaults on payments to producers, DATCP pays default claims from the fund.

A vegetable contractor that is required to file security with DATCP when the vegetable contractor is first licensed under this bill because the contractor has negative equity is disqualified from the fund until DATCP releases the security. A vegetable contractor is disqualified from the fund if DATCP denies, suspends, or revokes the contractor's license. A vegetable contractor is disqualified from the fund, and required to pay cash on delivery for all vegetables received from producers, if DATCP issues a written notice disqualifying the contractor for cause, including failure to pay fund assessments when due.

The bill establishes the formula for determining the amount of the assessments that must be paid by a vegetable contractor that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on a vegetable contractor's financial condition, the amount spent to procure vegetables from producers, the amount incurred under deferred payment contracts, and the number of consecutive years that the contractor has contributed to the fund.

The bill requires a vegetable contractor to maintain insurance to cover all vegetables in the custody of the contractor, unless the vegetable contractor pays cash on delivery for all vegetables or the contractor is a producer–owned cooperative that procures vegetables only from its producer owners.

Under the bill, vegetable contractor license fees are based on the amount that a vegetable contractor owed to vegetable producers over the course of the contractor's most recent fiscal year. Under the bill, if the balance in the fund contributed by vegetable contractors exceeds $1,000,000 on any November 30, DATCP must use 50% of the excess to reduce license fees.

Recovery proceedings and administration

Under this bill, when contractors who are licensed, or required to be licensed, fail to make payments when due or when grain warehouse keepers fail to return stored grain upon demand, producers or their agents may file default claims with DATCP.

The bill specifies payment amounts for each claim against a contractor that was contributing to the fund when the default occurred. For a claim against a milk contractor or grain dealer, the payment amount is 90% of the first $20,000 allowed, 85% of the next $20,000 allowed, 80% of the next $20,000 allowed, and 75% of any amount allowed in excess of $60,000. For a claim against a grain warehouse keeper, the payment amount is 100% of the first $100,000 allowed. For a claim against a vegetable contractor, the payment amount is 90% of the first $40,000 allowed, 85% of the next $40,000 allowed, 80% of the next $40,000 allowed, and 75% of any amount allowed in excess of $120,000. If a contractor was not contributing to the fund when the default occurred but had posted security with DATCP, DATCP uses the security proceeds to pay the full amount of the allowed claims, except that, as under current law, if the security is not adequate to pay the full amount of the allowed claims, DATCP pays the claimants on a prorated basis. A claimant that does not receive full payment may sue the contractor for the balance of the allowed claim.

The bill requires DATCP to obtain three surety bonds, called industry bonds. One bond is to secure payments of claims against contributing milk contractors, one to secure payments of claims against contributing grain dealers and warehouse keepers, and one to secure payment of claims against contributing vegetable contractors. In addition, the bill requires DATCP to obtain a blanket surety bond. The bill requires DATCP to make a demand against the appropriate industry bond if payments of claims against contributing contractors in that industry exceed a threshold specified in the bill. The bill requires DATCP to make a demand against the blanket bond if claims against contributing contractors in an industry exceed the amount available under the industry bond.

The bill authorizes DATCP to demand that a defaulting contractor reimburse DATCP for any claim amounts that were paid from the fund because of the contractor's default. The bill also authorizes a person who issues an industry bond or the blanket bond to require a defaulting contractor to reimburse the amounts that the person paid out because of the contractor's default.

OTHER AGRICULTURE

Under current law, for a person to claim the farmland preservation tax credit, the land to which the claim relates must be subject either to a farmland preservation agreement or to an exclusive agricultural use zoning ordinance. A farmland preservation agreement is between the landowner and DATCP. The agreement commits the owner to keep the land in agricultural use for the duration of the agreement, up to 25 years, although DATCP may release land from an agreement under certain circumstances. Under current law, in some of the circumstances under which DATCP may release land from a farmland preservation agreement, or if land is rezoned from exclusive agricultural use, DATCP is required to file a lien against the land in the amount of the farmland preservation credit received by the owner during the preceding ten years.

This bill eliminates the requirement that DATCP file a lien against land that is released from a farmland preservation agreement or that is rezoned from exclusive agricultural use. Under the bill, DATCP may not release land from a farmland

preservation agreement until the owner pays $50 per acre to this state, except in certain situations such as the death or disability of the owner. Also under the bill, a local governmental unit must require a payment of $60 per acre as a condition of rezoning land from exclusive agricultural zoning. The local governmental unit forwards the payment to the state.

Under current law, if DATCP finds that plants or other pest–harboring materials on agricultural lands or agricultural business premises are so infested with injurious pests as to constitute a hazard to plant or animal life in this state, DATCP may order the property owner to treat the premises or treat or destroy the infested plants or other material. If the property owner fails to comply with the order, DATCP may treat the premises or treat or destroy the infested plants or other material. This bill eliminates the provision that restricts DATCP's authority regarding treatment of infested premises and treatment or destruction of infested plants and other material to agricultural lands and agricultural business premises.

Under the current Soil and Water Resource Management Program, DATCP awards grants to counties to help the counties reduce soil erosion and water pollution. This bill increases the authorized general obligation bonding authority for the Soil and Water Resource Management Program by $7,000,000.

Under current law, DATCP awards agricultural research and development grants to fund demonstration projects, feasibility analyses, and applied research on new or alternative technologies and practices that will stimulate agricultural development. This bill authorizes DATCP to award grants and provide technical assistance to support preliminary research on potential business enterprises that may increase the value of raw agricultural commodities. The bill provides Indian gaming receipts for the new grant program and for the existing agricultural research and development grant program.

Under current law, a person is subject to a fine or imprisonment if the person violates certain laws enforced by DATCP, including laws relating to the manufacture, distribution, and sale of commercial feed, laws relating to the safety of certain consumer products, and laws relating to hazardous substances. This bill provides that a person who violates any of these laws may be subject to a forfeiture (civil monetary penalty) or to the existing criminal penalties.

Current law provides for a World Dairy Center Authority. The duties of the authority include establishing a center for the development of dairying in the United States and the world. This bill eliminates the World Dairy Center Authority.

COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

Under this bill, the department of commerce (department) must designate up to 20 areas in the state as technology zones. The department may certify any new

or expanding high–technology business located in a designated technology zone for a tax credit that is based on the amount of real and personal property taxes that the business paid in the taxable year; the amount of sales and use taxes that the business paid in the taxable year; and the amount of income and franchise taxes that the business paid in the taxable year. A business certified by the department may claim the tax credit for three years, or for up to five years if the business experiences growth to an extent determined by the department, but the total amount that a business may claim is limited by the department, and not more than $5,000,000 in tax credits may be claimed by all businesses certified in a technology zone.

This bill designates an area in the city of Milwaukee as a development opportunity zone and authorizes up to $4,700,000 to be claimed in tax credits for economic activity in the zone. The bill also provides that a person conducting economic activity in this new development opportunity zone who would not otherwise be able to claim tax credits may be certified for tax credits if: 1) the economic activity is instrumental in enabling another person to conduct economic activity in the zone that would not have occurred but for the first person's involvement; 2) the department determines that the person being certified for tax credits will pass the benefit of the tax credits through to the other person conducting the economic activity in the zone; and 3) the other person conducting economic activity in the zone does not claim tax credits for the economic activity.

In addition, the bill creates an income tax and franchise tax credit for a business that is certified to receive tax credits in the new development opportunity zone that is equal to 3% of the following: 1) the purchase price of tangible personal property that is used for at least 50% of its use for the business at a location in the zone; and 2) the amount expended to acquire, construct, rehabilitate, remodel, or repair real property in the zone. A business may claim the credit only to offset taxes that are imposed on income that is attributable to the operations of the business in the development zone.

Under the current community–based economic development programs, the department awards grants to counties, cities, villages, towns, and community–based organizations for various purposes related to promoting economic development at the community level. This bill eliminates these programs and creates the New Economy for Wisconsin (NEW) Program. Under NEW, the department may award grants, not exceeding $100,000 each, to community–based business incubators and nonprofit organizations that provide services to high–technology businesses or that promote entrepreneurship. Grant proceeds may be used only for assisting small businesses (businesses with fewer than 100 employees) in adopting new technologies in their operations, for assisting technology–based small businesses in activities that further technology transfer, or for assisting entrepreneurs in discovering business opportunities.

Under the current Gaming Economic Development Grant and Loan Program, the department may award a grant for professional services, or award a grant or

make a loan for fixed asset financing, to an existing business in this state if the business has been negatively affected by the existence of a casino and has a legitimate need for the grant or loan to improve profitability. Under the current Gaming Economic Diversification Program, the department may award a grant or make a loan to an existing business in this state for a project that will diversify the economy of a community. Each program is funded with Indian gaming receipts.

Under this bill, start–up businesses, in addition to existing businesses, are eligible for the grants and loans under both programs. The bill adds remediating brownfields (which are abandoned, idle, or underused industrial or commercial facilities or sites that are adversely affected for expansion or redevelopment by actual or perceived environmental contamination) as a project purpose for which grants and loans may be awarded under the Gaming Economic Diversification Program. In addition, the bill authorizes the department to award a grant to the M7 Development Corporation for construction of a multipurpose center at Lincoln Park in the city of Milwaukee and to award grants to the Chippewa Valley Technical College for a health care education center. These grants are paid out of Indian gaming receipts.

Under the current Physician Loan Assistance Program, the department may repay, over a three–year period, up to $50,000 in educational loans on behalf of a physician who specializes in family practice, general internal medicine, general pediatrics, obstetrics and gynecology, or psychiatry and who agrees to practice at least 32 hours per week for three years in a clinic in one or more eligible practice areas in this state. This bill expands the Physician Loan Assistance Program to include dentists.

Under current law, the department must award grants not exceeding a total of $900,000 to the city of Milwaukee for a matching grant program administered by the Milwaukee Economic Development Corporation. Under that program, grants are provided to persons for remediation and economic redevelopment projects in the Menomonee valley. Funding comes from Indian gaming receipts. This bill requires the department to make grants in the 2001–03 fiscal biennium directly to the Milwaukee Economic Development Corporation for its matching grant program and to the Menomonee Valley Partners, Inc. Funding comes from Indian gaming receipts. The proceeds of these grants must be used to support job creation and private sector implementation of the Menomonee valley land use plan.

WHEDA currently administers a number of loan guarantee programs under which WHEDA guarantees repayment of a percentage of the outstanding principal amounts of loans made by private lenders to qualified borrowers for various business and agricultural purposes. Most of the loan guarantee programs are backed by funds in the Wisconsin development reserve fund. Each loan guarantee program has a limit on the total outstanding principal amount of all loans that WHEDA may guarantee under the program (guarantee limit). In that way, WHEDA may

guarantee more loans under a program as the loans already guaranteed under that program are repaid.

The bill eliminates the separate guarantee limit under each of the guarantee loan programs that are backed by the Wisconsin development reserve fund and establishes one overall guarantee limit of $62,000,000 for all programs backed by that reserve fund. Thus, as loans guaranteed under a program that is backed by the Wisconsin development reserve fund are repaid, WHEDA may guarantee more loans under any of the programs that are backed by that reserve fund.

Current law requires WHEDA to ensure that the cash balance in the Wisconsin development reserve fund is maintained at a ratio of $1 of reserve funding to $4.50 of outstanding principal that WHEDA may guarantee under all of its loan guarantee programs, except the cultural and architectural landmark loan guarantee program, under which WHEDA no longer guarantees new loans. This bill changes the ratio at which WHEDA must maintain the Wisconsin development reserve fund to $1 of reserve funding to $5.50 of outstanding principal that WHEDA may guarantee under all of the programs guaranteed from the fund, except the cultural and architectural landmark loan guarantee program. The reserve funding ratio for that program remains at $1 of reserve funding to $4 of outstanding guaranteed principal.

Currently, under the Small Business Development Loan Guarantee Program, WHEDA may guarantee repayment of up to the lesser of $200,000 or 80% of the principal of a loan made by a private lender to a small business (a business with 50 or fewer full–time employees) or the elected governing body of a federally recognized American Indian tribe or band in this state. The proceeds of a small business development loan may be used only for expenses associated with the expansion or acquisition of a business or with the start–up of a day care business. This bill adds to the eligible uses of a small business development loan expenses associated with the start–up of a small business in a vacant storefront in the downtown area of a city, town, or village with a population of less than 50,000.

Currently, in each fiscal biennium, the department of tourism may select up to two areas of the state to participate in the Heritage Tourism Program, which entitles an area to assistance in assessing its potential for heritage tourism (tourism that is based on historical or prehistorical resources) and in developing and implementing a plan to increase such tourism. The department of tourism awards grants for promoting heritage tourism in the selected areas to the persons that applied on behalf of the areas. Only one grant may be awarded to an applicant in a fiscal year, and grants may be awarded to an applicant only in two fiscal years.

This bill provides that the two grants that may be awarded to an applicant on behalf of a selected area may be awarded only in the two fiscal years of the fiscal biennium in which the area was selected. The bill also provides that, after the fiscal biennium in which an area was selected, the department of tourism may award grants of up to $5,000 in a fiscal year to a nonprofit organization that is located in

the area. A nonprofit organization is eligible for the new grants even if it previously received grants as the applicant on behalf of the area.

Under current law, WHEFA may issue bonds to finance facilities and related structures that are used for post–secondary education. This bill allows WHEFA to issue bonds to finance facilities and related structures that are used for primary and secondary education.

Under the current Brownfields Grant Program, the department of commerce (department) awards grants to persons, municipalities, and local development corporations for redevelopment of brownfields and remediation activities associated with the redevelopment. This bill provides that all of the following are eligible for a brownfields grant: an individual, partnership, limited liability company, corporation, nonprofit organization, city, village, town, county, or trustee, including a trustee in bankruptcy.

Under current law, the department may award up to $1,000,000 in grants each fiscal year to technology–based nonprofit organizations to provide support for manufacturing extension centers. This bill eliminates the June 30, 2001, expiration date of the Manufacturing Extension Center Grant Program.

COMMERCE

Uniform Electronic Transactions Act

This bill enacts a version of the Uniform Electronic Transactions Act (UETA), which was approved and recommended for enactment by the National Conference of Commissioners on Uniform State Laws in 1999. Currently, a combination of state and federal laws govern the use of electronic documents and signatures in this state. The most significant federal law in this regard is the Electronic Signatures in Global and National Commerce Act, commonly known as "E–sign." Although E–sign contains provisions that potentially affect the maintenance and destruction of public records and the acceptance of electronic documents by governmental units, E–sign primarily affects the use of electronic documents and signatures in consumer and business transactions.

E–sign generally preempts inconsistent state laws. However, with possible limited exceptions, E–sign does not preempt a state law that constitutes an enactment of the recommended version of UETA. This bill contains only minor, nonsubstantive changes to the recommended version of UETA as necessary to incorporate UETA into the existing statutes. Several provisions of UETA are subject to varying interpretations. Unless otherwise noted, this analysis reflects the interpretation, if any, that is supported by the prefatory note or official comments to the recommended version of UETA.

Like E–sign, the bill primarily affects the use of electronic documents and electronic signatures in transactions. Under the bill's broad definitions, such things as information stored on a computer disk or a voice mail recording would likely qualify for use as an electronic document. However, like E–sign, this bill does not apply to the execution of wills, to testamentary trusts, or to a transaction governed by any chapter of this state's version of the Uniform Commercial Code other than the chapter dealing with sales of goods. Unlike E–sign, this bill may permit the use of

electronic documents for matters relating to family law; court documents; notices of the cancellation of utility services; certain notices of default, acceleration, repossession, foreclosure, eviction, or the right to cure; certain notices of the cancellation or termination of health insurance or life insurance; and product recall notices.

Like E–sign, this bill specifies that a document or signature may not be denied legal effect or enforceability solely because it is in electronic form. Unlike E–sign, this bill further states that an electronic document satisfies any law requiring a document to be in writing and that an electronic signature satisfies any law requiring a signature. The bill does not require the use of electronic documents or electronic signatures. Rather, the bill applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. However, unlike current law under E–sign, this bill does not contain any protections that specifically apply only to consumer transactions. The consumer protections currently in effect under E–sign would likely have no effect in this state upon the enactment of this bill.

Under this bill, a person may use an electronic document in a transaction to satisfy any law requiring the person to provide, send, or deliver information in writing to another person, if the electronic document satisfies certain conditions. Although the bill also states that a document relating to a transaction may not be denied legal effect solely because it is in electronic form, the bill likely permits a person to deny the legal effect of an electronic document that does not satisfy these conditions. The bill also specifies that, with certain exceptions, a document must satisfy any law requiring the document to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner. Although this provision is subject to varying interpretations, it likely requires the parties to a transaction to comply with any legal requirement relating to the provision of information *other than a requirement that the information be provided on paper.*

The bill establishes the time and location of the sending and receipt of an electronic document, although the parties to a transaction may agree to alter the effect of these provisions. The bill also permits a sender to expressly provide in an electronic document that the document is deemed to be sent from a different location. The bill also establishes the legal effects of any change or error in an electronic document that occurs in a transmission between the parties to a transaction. These effects depend in part upon whether the parties have consented to the use of a security procedure and whether the transaction is an automated transaction involving an individual.

With certain exceptions, this bill permits the use of an electronic document to satisfy any law that requires document retention, as long as the retained information satisfies certain requirements relating to content and accessibility. An electronic document retained in compliance with these provisions has the same legal status as the original document and need not contain any information the sole purpose of which is to enable the document to be sent, communicated, or received. Under current law, this ancillary information is normally required to be retained if the

document to which it is attached is required to be retained. The bill specifies that the state may enforce laws enacted after this bill that prohibit a person from using an electronic document to satisfy any requirement that the person retain a document for evidentiary, audit, or like purposes. It is unclear, though, what types of retention requirements are enacted for "evidentiary, audit, or like purposes." The bill also specifies that it does not preclude a governmental unit of this state from imposing additional requirements for the retention of any document subject to its jurisdiction. It is unclear how this provision relates to other provisions of the bill which provide that certain electronic documents satisfy any retention requirement.

Like E–sign, this bill also permits electronic notarization, acknowledgement, or verification of a signature or document relating to a transaction, as long as the electronic signature of the person performing the notarization, acknowledgement, or verification is accompanied by all other information required by law. In addition, like E–sign, this bill contains provisions potentially affecting the maintenance and destruction of public records. However, this potential effect is less likely to occur under this bill, if the scope of the UETA provisions is interpreted to be consistent with the prefatory note and comments to the recommended version of UETA. The bill also clarifies an ambiguity in current law under E–sign by authorizing a person to submit an electronic document or signature to a governmental unit only if the governmental unit consents.

Universal banking

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

In order to be certified as a universal bank, a financial institution must be chartered or organized, and regulated, as a Wisconsin financial institution and be in existence and continuous operation for at least three years; must be well–capitalized; must not exhibit moderately severe or unsatisfactory financial, managerial, operational, and compliance weaknesses; and must not have been the subject of any enforcement action within the 12 months preceding the application. In addition, the most recent evaluation of the financial institution under the federal Community Reinvestment Act must rate the financial institution as outstanding or satisfactory at helping to meet the credit needs of its entire community. Also, the most recent evaluation of the financial institution under certain federal laws relating to customer privacy must indicate that the financial institution is in substantial compliance with those federal laws. A financial institution that the division of banking certifies as a universal bank retains its original status and remains subject to all of the laws that applied to the financial institution prior to its certification as a universal bank, except to the extent that such laws are inconsistent with the powers and duties of universal banks. The bill expands the powers of a financial institution that becomes certified as a universal bank to include any activity authorized for any savings bank, savings and loan association, or state bank.

The bill permits a universal bank, with the approval of the division of banking, to exercise all powers that may be exercised directly by a national bank, a federally chartered savings bank, or a federally chartered savings and loan association. The division of banking may require a universal bank to exercise a federal power through a subsidiary, in order to limit the risk of exposure of the universal bank. In addition, the bill permits a universal bank, with the approval of the division of banking, to exercise through a subsidiary all powers that a subsidiary of these federal financial institutions may exercise.

The bill permits a universal bank to deal in loans or extensions of credit for any purpose. Like state banks, the limitations imposed on a universal bank's lending generally focus on the total amount of liabilities of any one lender at any one time. Although the limit varies, the general rule is that the total liabilities of any one person to a universal bank may not exceed 20% of the capital of the universal bank. In addition, the bill grants a universal bank additional authority to lend an aggregate amount to all borrowers not to exceed 20% of the bank's capital. The division of banking may suspend this additional authority based upon factors including the universal bank's capital adequacy, management, earnings, liquidity, and sensitivity to market risk. The bill prohibits a universal bank, in determining whether to make a loan or extension of credit, from considering any health information obtained from the records of an affiliate of the universal bank that is engaged in the business of insurance, unless the person to whom the health information relates consents.

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

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

The bill permits a universal bank to exercise all powers necessary or convenient to effect the purposes for which the universal bank is organized or to further the businesses in which the universal bank is lawfully engaged. In addition, the bill

permits a universal bank to engage in activities that are reasonably related or incident to the purposes of the universal bank. Under the bill, any activity permitted under the federal Bank Holding Company Act satisfies the reasonably related or incidental criterion. The bill also contains a list of specific activities that meet the reasonably related or incidental criterion. The listed activities include: real estate–related services; insurance services, other than insurance underwriting; securities brokerage; investment advice; securities and bond underwriting; mutual fund activities; financial consulting; and tax planning and preparation. A universal bank may also engage in activities that the division of banking determines by rule are reasonably related or incidental to these listed activities. In addition, the division of banking, by rule, may determine that other activities are reasonably related or incidental activities. In promulgating these rules, the division of banking need not follow the standard notice, hearing, and publication requirements that generally apply to administrative rule making.

Credit unions

This bill expands the pool of individuals, organizations, and associations that are eligible for membership in a credit union. Under the bill, credit union membership is open to individuals who reside or are employed in well–defined, contiguous neighborhoods and communities, except that, if the office of credit unions determines, subsequent to a merger, that it is inappropriate to require the members of a credit union to reside or be employed in contiguous neighborhoods and communities, the requirement does not apply. In addition, membership is open to individuals who reside or are employed in well–defined, contiguous rural districts or multicounty regions. The bill also opens credit union membership to any organization or association that has its principal business location within any geographic limits of the credit union's field of membership. The bill also permits a credit union to accept any organization or association as a member if a majority of the directors, owners, or members of the organization or association are eligible for membership.

Under current law, if the need exists, a credit union may establish branch offices within this state or no more than 25 miles outside of this state. In addition, under current law regarding interstate mergers and acquisitions of credit unions, a credit union organized in this state may only merge with, acquire, or be acquired by a state or federal credit union that has its principal office in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, or Ohio. This bill expands the authority of a credit union to establish branch offices. Under the bill, with the permission of the office of credit unions, a credit union may establish branch offices anywhere inside or outside of this state. In addition, the bill repeals this geographic limitation on mergers and acquisitions of credit unions.

Current law does not specifically permit a credit union organized under the laws of another state (non–Wisconsin credit union) to establish a branch office in this state. This bill specifies that a non–Wisconsin credit union may establish a branch office in this state if the office of credit unions finds that certain conditions apply to the non–Wisconsin credit union.

Under current law, subject to certain limitations, a credit union may invest in an organization that is organized primarily to provide goods and services to credit unions, credit union organizations, and credit union members (credit union service organization). Under current law, a credit union may invest in a credit union service organization that is a corporation. Current law specifies the services that a credit union service organization may provide. This bill permits a credit union to invest in a credit union service organization that is a corporation, limited partnership, limited liability company, or any other entity that is permitted under state law and that is approved by the office of credit unions. The bill also permits the office of credit unions to increase the maximum amount that a credit union may invest in a credit union service organization. In addition, the bill expands the types of services that a credit union service organization may provide to include electronic transaction services.

This bill expands the authority of a credit union to act as a trustee, allowing a credit union, to the extent permitted by federal law, to act as a trustee or custodian of member tax deferred retirement funds, individual retirement accounts, medical savings accounts, and other employee benefit accounts or funds. In addition, the bill allows a credit union, to the extent permitted by federal law, to act as a depository for member qualified and nonqualified deferred compensation funds.

Current law contains several credit union reporting requirements and, with certain exceptions, requires the office of credit unions to annually examine the records and accounts of each credit union. The employees of the office of credit unions and members of the credit union review board must keep information obtained in the course of examinations confidential, with limited exceptions. A violation of this confidentiality requirement is subject to a forfeiture (civil penalty) of up to $200. This bill creates a crime for certain disclosures of information by any employee of the office of credit unions or member of the credit union review board and creates a crime for knowingly falsifying certain credit union reports or statements.

This bill requires credit unions to comply with certain federal laws relating to customer financial privacy and requires the office of credit unions to examine credit unions for compliance with these federal laws.

Alcohol beverages

Under the current Fair Dealership Law, which applies to most types of product distributors, a wholesaler of fermented malt beverages that operates under a contract or agreement, expressed or implied, with a brewer (known as the grantor) for distribution of a brewer's products, and that maintains a "community of interest" (i.e., a sufficiently close continuing financial interest) with the brewer, is considered a dealer. A brewer may not terminate, cancel, fail to renew, or substantially change in terms of competitive circumstances a dealer's distribution rights without good cause. A brewer that does so may be held liable, and injunctive relief preventing the brewer's actions may be obtained. Good cause means failure by the dealer to comply substantially with essential and reasonable requirements imposed upon the dealer by the brewer, which requirements are not discriminatory as compared to their application by the brewer to other similarly situated dealers. Good cause also means bad faith by the dealer in carrying out the brewer's distribution business.

Under this bill, a fermented malt beverages wholesaler that does not maintain a "community of interest" with a brewer may still be a dealer of the brewer, such that the wholesaler's product distribution rights may not be terminated by the brewer without good cause. The bill also requires that, if a fermented malt beverages wholesaler's authorization to distribute products is terminated in whole or in part by a brewer (even for good cause), any succeeding fermented malt beverages wholesaler must compensate the terminated wholesaler for the fair market value of the distributorship that was terminated by the brewer. An exception exists if the terminated wholesaler was terminated by the brewer because the terminated wholesaler: engaged in material fraudulent conduct or made material and substantial misrepresentations in its dealings with the brewer or others; was convicted of a felony substantially related to operation of the dealership; or knowingly distributed products outside the territory authorized by the brewer. Disputes regarding the amount of compensation owed by a succeeding wholesaler to a terminated wholesaler must be mutually resolved between the parties or resolved through binding arbitration through a nationally recognized arbitration association.

Under current law, with certain exceptions, the outright sale, transfer, or assignment of a license to sell alcohol beverages at retail is illegal and unenforceable. However, current licensees or permittees at times agree to surrender to the issuing authority their license or permit for a premises upon promise of payment by another party if the surrender results in the other party being awarded the liquor license or permit for the premises. This bill prohibits municipalities and DOR from issuing to an applicant a retail license or permit to sell alcohol beverages if the premises described in the application is already covered by a current license or permit of the same kind unless each fermented malt beverage wholesaler to whom the current licensee or permittee is indebted is first notified that another person has applied for a license or permit for the same premises.

Under current law, a person who holds a security interest in alcohol beverages may, without a license or permit, sell alcohol beverages. This bill requires that a sale of fermented malt beverages by a secured party be made within 30 days after the secured party takes possession of the fermented malt beverages unless the secured party demonstrates good cause why this time period is insufficient to make a sale that is commercially reasonable or in conformity with the parties' security agreement.

Under current law, any person who ships fermented malt beverages from out–of–state to this state must hold an out–of–state shippers' permit, which authorizes the permittee to ship fermented malt beverages only to licensed wholesalers within the state. This bill requires DOR to issue a written warning for an out–of–state shipper's first violation, and increases the penalty for any subsequent violation.

Current law generally prohibits any brewer or wholesaler of fermented malt beverages from furnishing anything of value to a retailer of fermented malt beverages. A number of exceptions to this prohibition exist. One exception allows brewers and wholesalers to give to any fermented malt beverage retailer, for placement inside the premises, signs, clocks, or menu boards with an aggregate value of not more than $150. This bill increases the aggregate limit on the value of signs, clocks, or menu boards from $150 to $2,500 during any calendar year. The bill also allows a brewer or wholesaler to provide signs made from plastic, vinyl, or other materials with a limited useful life without limitation on the aggregate value of these signs. The bill further increases the allowable business entertainment value limit from $75 per day to $500 per day and limits the number of days to not more than 12 in a calendar year.

Another exception allows a brewer or wholesaler to purchase advertising from a national or statewide trade association of retailers. This bill allows a brewer or wholesaler to purchase advertising from an advertising agency or media company to promote brewer or wholesaler sponsored sweepstakes, contests, or promotions on the premises of retailers if the promotional material includes at least five unaffiliated retailers and if the retailer on whose premises the sweepstakes, contest, or promotion will occur does not receive compensation for hosting the event. The bill also allows a brewer or wholesaler to conduct its own sweepstakes, contest, or promotion on the premises of a retailer if these same conditions are satisfied.

Another exception allows a brewer that produces 350,000 or more barrels of fermented malt beverages annually to make contributions to national or statewide trade associations of retailers. This bill allows any brewer or wholesaler to make contributions to national, statewide, or local trade associations of retailers. This would include allowing brewers or wholesalers to join local tavern leagues.

Administrative dissolution of limited liability company

This bill authorizes DFI to administratively dissolve a limited liability company if any of the following occur: the limited liability company does not pay, within one year, any fees or penalties due DFI; the limited liability company is without a registered agent or registered office in this state for at least one year; and the limited liability company does not notify DFI within one year that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

Unclaimed property

Under Wisconsin's version of the Uniform Unclaimed Property Act (UUPA), certain types of property are presumed to be abandoned if the owner of the property fails to take steps to evidence ownership within a specified time period (dormancy period). With certain limited exceptions, the holder of property that is presumed to be abandoned must report and deliver the property to the state treasurer every other year. With certain limited exceptions, the treasurer must sell the property within three years after the date on which the treasurer receives the property. If the property is a security other than a stock (for example, a stock option or an interest

in a limited partnership), the treasurer must hold the security for at least one year before selling it, unless it is in the best interest of the state to do otherwise. Except for amounts sufficient to cover possible claims and the treasurer's administrative expenses, the treasurer currently deposits the clear proceeds of the sale of delivered property in the school fund.

Persons claiming an interest in any abandoned or unclaimed property delivered to the treasurer may file a claim with the treasurer to obtain the property. If a claim is allowed, the treasurer generally must deliver the property to the claimant or pay the claimant the amount the treasurer actually received or the net proceeds of the sale of the property, plus certain amounts for dividends or interest accruing to the property. However, if the claim is for any property other than a stock and if the treasurer sold the property within three years after the date on which the treasurer received the property, the treasurer must pay the claimant the value of the property at the time the claim was filed or the net proceeds of the sale, whichever is greater. This alternate method of valuation also applies if the claim is for a stock that the treasurer sold within three years after the date of receipt, as long as the claim is filed within that three–year period.

With certain limited exceptions, this bill requires annual reporting and delivery of unclaimed property to the state treasurer. The bill also shortens from seven years to five the dormancy period that applies to a stock or other intangible ownership interest in a business association. The bill establishes a single procedure that applies to the sale of all abandoned securities delivered to the treasurer, which requires the treasurer to hold the securities for at least one year before selling them, unless it is in the best interest of the state to do otherwise. In addition, the bill deletes the alternate method of valuation that applies to property, including stocks, sold within three years after the date on which the treasurer received the property. Thus, under this bill, the treasurer's liability for any claim is generally limited to delivery of the applicable abandoned or unclaimed property or payment of the amount the treasurer actually received or the net proceeds of the sale of the property, plus certain amounts for dividends or interest accruing to the property.

Telemarketing

This bill creates three prohibitions regarding telephone solicitations, which are unsolicited telephone calls encouraging a person in this state to purchase property, goods, or services. First, the bill prohibits an employee of a professional telemarketer from using a blocking service that withholds from the recipient of the call the name or telephone number associated with the telephone line used to make the call. A professional telemarketer is any business with employees whose primary duty is to make telephone solicitations.

Second, the bill prohibits an employee of a professional telemarketer from making a telephone solicitation to a person who has provided notice to the professional telemarketer that the person does not want to receive telephone solicitations.

Third, the bill prohibits an employee of a professional telemarketer from making a telephone solicitation unless, when initiating the telephone conversation,

the employee discloses each the following: 1) the employee's name; 2) the identity of the person selling the property, goods, or services for whom the telephone solicitation is being made; and 3) the purpose of the call.

In addition, the bill makes changes to a prohibition under current law against any person using a prerecorded message in a telephone solicitation without the consent of the person called. Under this bill, the prohibition applies to any employee of a professional telemarketer, instead of any person.

Securities agents

With certain exceptions, current law prohibits a person from engaging in the business of banking without being organized and chartered as a national bank, state bank, or trust company bank. Certain agents who receive and hold money, pending investment in real estate or securities on behalf of the person who deposited the money, are not engaged in the business of banking and are therefore exempt from regulation. However, this exemption applies only if the agent keeps the money in a separate trust fund, does not mingle the money with the agent's own property, and does not agree to pay interest on the money other than to account for the actual income that is derived from the money while held pending investment.

This bill expands this exemption to include an agent who receives and holds money, pending investment in real estate or securities on behalf of the person who deposits the money regardless of whether the money is separately kept and regardless of whether the agent agrees to pay interest on the money. Thus, under this bill, an agent may pay interest on money that the agent receives and holds, pending investment in real estate or securities on behalf of the person who deposited the money.

Wisconsin Consumer Act

Under current law, a transaction in which a consumer is granted credit in an amount of $25,000 or less and which is entered into for personal, family, or household purposes (consumer credit transaction) is generally subject to the Wisconsin Consumer Act. The Wisconsin Consumer Act provides obligations, remedies, and penalties that current law generally does not require for other transactions. With certain limited exceptions, any person who makes or solicits consumer credit transactions in this state must register with DFI. A person who is subject to this registration requirement must pay a registration fee, unless the average outstanding monthly balance of all consumer credit transactions that the person entered into in this state is $250,000 or less. Currently, the minimum fee is $25 and the maximum fee is $1,500 or 0.005% of the average monthly outstanding balance, whichever is less.

Under this bill, a person is exempt from the annual registration requirement, and the annual registration fee, if the person's year–end balance is $250,000 or less, although the person still must make an initial registration and pay an initial registration fee. This bill also deletes the statutory minimum and maximum

registration fees and requires DFI to set registration fees by rule, based upon the existing, specified criteria.

BUILDINGS AND SAFETY

Fire dues program

Under current law, an eligible city, village, or town (municipality) may receive a grant from the department of commerce to purchase fire protection equipment, to provide fire inspection services and public education, to train fire fighters and fire inspectors, and to fund certain accounts established for the benefit of fire fighters (fire dues program). The fire dues program is funded from a percentage of certain insurance premiums.

This bill makes numerous changes and clarifications to the fire dues program. With certain exceptions, in order for a municipality to be eligible to receive a grant from the fire dues program, the chief of the municipal fire department currently must provide a fire inspection for every public building and place of employment in the fire department's territory. Under the bill, a municipality may be eligible to receive a grant if the municipality ensures that at least 95% of the required fire inspections are provided for in the municipality and if the municipality certifies to the department of commerce that these inspections were provided. It is unclear under current law whether certain fire dues program eligibility requirements and fire safety laws apply to a municipality or to a fire department that provides services to a municipality. In general, the bill specifies that the fire dues program eligibility requirements apply to a municipality rather than to a fire department. In addition, the bill requires a municipality to ensure that certain fire safety laws, such as those requiring fire inspections, that apply to a fire department, a fire chief, or other designated individuals, are followed in the municipality.

Fire safety laws

Current law generally requires the chief of each municipal fire department to comply with certain fire safety laws relating to fire inspections and fire safety education. This bill authorizes the department of commerce to create the Fire Safety and Injury Prevention Education Program. In addition, the bill makes numerous changes and clarifications to the fire safety laws. Among other things, the bill expands the department of commerce's authority with regard to fire safety to include jurisdiction over and supervision of all buildings, structures, premises, and public thoroughfares in this state for the purpose of administering all laws relating to fire inspections, fire prevention, fire detection, and fire suppression. In addition, the bill authorizes the department of commerce to enter a private dwelling, with the consent of the owner or renter, in order to verify the proper installation and maintenance of smoke detectors and fire suppression devices, such as fire sprinklers.

Manufactured building code enforcement

Under current law, the department of commerce administers the manufactured building code to ensure that minimum standards are met for the manufacture and

installation of manufactured buildings as dwellings. Currently, a city, village, town, or county (municipality) may, with the approval of the department of commerce, enact an ordinance to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality. A county ordinance applies in any city, village, or town within the county that has not adopted ordinances to enforce the manufactured building code, unless the city, village, or town is exempt from administration of the manufactured building code. Currently, any small municipality (city, village, or town with a population of 2,500 or less) is exempt from administration of the manufactured building code. Generally, inspections must be performed to enforce the manufactured building code in a municipality.

This bill removes the requirement that a municipality obtain department of commerce approval before enacting an ordinance to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality. In addition, this bill creates new requirements relating to the administration of the manufactured building code in small municipalities. Under this bill, a small municipality may do any of the following:

1. Enact an ordinance to enforce the manufactured building code, either independently or jointly with another municipality, with regard to the installation of manufactured buildings as dwellings in the small municipality.

2. Adopt a resolution requesting the appropriate county to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality.

3. Adopt a resolution not to exercise either of the above options, in which case the small municipality is exempt from administration of the manufactured building code.

4. Take no action, in which case the department of commerce must enforce the manufactured building code throughout the municipality.

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, any person who is serving a sentence, other than a life sentence, for a felony that was committed before December 31, 1999, may be paroled after serving 25% of his or her sentence. The parole commission makes the decision as to when the person actually is paroled. Currently, any person who is serving a sentence, other than a life sentence, for a felony that was committed on or after December 31, 1999, is sentenced to prison and to extended supervision for a specific time determined by the court.

This bill allows the secretary of corrections to release a prisoner eligible for parole or extended supervision before the end of his or her mandatory time of imprisonment if the prisoner is seriously or terminally ill. Under the bill, the prisoner may be released if the secretary determines that the inmate's release would not pose a risk of harm to any person and that the inmate's health care costs are likely to be paid by the federal medicare program, a veteran's program, medical assistance,

or another federal or state medical program, or by the inmate. The bill requires DOC to promulgate rules regarding eligibility for, and revocation from, this program.

Under current law, if a person violates a requirement of parole or extended supervision, DOC may return the person to prison. Current law also permits DOC to take a person into custody if DOC alleges that the person has violated a condition or rule relating to parole. This bill specifies that DOC may also take a person under extended supervision into custody if DOC alleges that the person has violated a condition or rule relating to extended supervision. In addition, the bill specifies how to calculate the amount of time remaining on a bifurcated sentence for purposes of determining the maximum amount of time for which a person may be returned to prison after a violation of extended supervision and the length of the term of extended supervision that the person must serve thereafter.

Under current law, the person in charge of a state correctional institution is required to notify an inmate's relative of the inmate's death. Currently, DOC is also required to provide the relative with written notification that, upon request, DOC will provide the relative with a copy of any autopsy or any report or information regarding the inmate's death.

Under current law, if the district attorney has notice that the death of a person may be the result of homicide or suicide, or may have occurred under unexplained or suspicious circumstances, the district attorney may order an inquest to determine the cause of the person's death. The coroner or medical examiner is required to notify the district attorney of a suspicious death and may request that the district attorney order an inquest regarding that death. The district attorney may then order an inquest or may request that the coroner or medical examiner conduct a preliminary examination for the district attorney. If the district attorney does not order an inquest, under current law the coroner or medical examiner may petition the circuit court to order an inquest.

Under this bill, the coroner or medical examiner is required to conduct an autopsy of every individual who dies while he or she is in the legal custody of DOC and is an inmate in a correctional facility located in this state. If the coroner or medical examiner determines that the person's death was the result of any of the circumstances that could result in the district attorney ordering an inquest, the bill requires the coroner or medical examiner to notify the district attorney and request an inquest.

If an individual dies while he or she is in the legal custody of DOC and confined to a correctional facility in another state under a contract with DOC, the bill requires DOC to have an autopsy performed on the individual. Under the bill, the autopsy must be performed by either a coroner or medical examiner of the county from which the individual was sentenced or by an appropriate authority in the other state. If a coroner or medical examiner of the county from which the individual was sentenced determines that the individual's death may have been the result of any of the circumstances that would permit the district attorney to order an inquest, a copy of

the results of the autopsy must be sent to the appropriate authority in the other state. The bill requires DOC to pay the costs of an autopsy.

This bill gives DOC authority to establish medium security correctional institutions at Redgranite and New Lisbon. Funding for the building of these institutions was included in the state building program in the 1997 budget act.

The bill also specifies that any correctional institution that has been constructed by a private person and leased or purchased by the state for use by DOC is a state prison and names the medium security penitentiary located near Black River Falls the "Jackson Correctional Institution."

This bill increases the number of members of the parole commission from six to eight until June 30, 2003. After that date, the parole commission reverts back to six members. The parole commission determines if a person may be released on parole from an adult correctional facility. The chairperson of the parole commission appoints the other members of the parole commission.

Under current law, DOC may require a prisoner in a correctional institution to pay a deductible, a copayment, coinsurance, or a similar charge if the prisoner receives medical or dental care and the prisoner earns wages while he or she resides in the correctional institution. Currently, DOC may exempt or waive the payment of those charges under criteria that DOC establishes by rule. This bill deletes the requirement that the prisoner must earn wages while he or she resides in the correctional institution before he or she may be required to pay a deductible, a copayment, coinsurance, or a similar charge.

Under current law, as interpreted in *State ex rel. Speener v. Gudmanson,* 234 Wis. 2d 461 (2000), the definition of "correctional institution" for purposes of the laws relating to prisoner litigation does not include an out–of–state jail. As a result of that decision, persons who are in the custody of DOC and placed in a jail or prison that is located outside of this state are not subject to the requirements of the laws relating to prisoner litigation. This bill overrides that decision by defining a "prisoner" for purposes of prisoner litigation to include any person who is incarcerated, imprisoned, or otherwise detained and who is in the custody of DOC or of the sheriff, superintendent, or other keeper of a jail or house of corrections. All persons who are placed in a jail or prison outside this state by DOC are in the custody of DOC.

Under current law, until July 1, 2001, DOC may operate the juvenile correctional facility at Prairie du Chien as a state prison for nonviolent offenders who are not more than 21 years of age. This bill extends that authority to July 1, 2003.

JUVENILE CORRECTIONAL SYSTEM

Under current law relating to community youth and family aids, generally referred to as "youth aids," DOC is required to allocate various state and federal moneys to counties to pay for state–provided juvenile correctional services and local

delinquency–related and juvenile justice services. DOC charges counties for the costs of services provided by DOC according to per person daily cost assessments specified in the statutes. Currently, those assessments include assessments of $154.08 for care in a juvenile correctional facility or a treatment facility, $76.71 for corrective sanctions services, and $18.62 for aftercare services. This bill increases those assessments for fiscal year 2001–02 to $171.16 for care in a juvenile correctional facility or a treatment facility, $82.89 for corrective sanctions services, and $23.25 for aftercare services and for fiscal year 2002–03 to $176.06 for care in a juvenile correctional facility or a treatment facility, $84.87 for corrective sanctions services, and $23.80 for aftercare services. The bill also eliminates statutorily set assessments for care in a child caring institution, group home, foster home, or treatment foster home.

Under current law, a court assigned to exercise jurisdiction under the juvenile justice code (juvenile court) may place a juvenile ten years of age or over who has committed a Class A felony, which is a crime punishable by life imprisonment if committed by an adult, or may place a juvenile 14 years of age or over who has committed a Class B felony, which is a crime punishable by imprisonment for 60 years if committed by an adult, in the Serious Juvenile Offender Program (SJOP) if the juvenile court finds that the only other disposition that would be appropriate for the juvenile would be placement in a juvenile secured correctional facility. The SJOP contains various component phases for its participants, including placement in a juvenile secured correctional facility or, if the participant is 17 years of age or over, an adult prison. The SJOP also includes a component phase of intensive or other field supervision, including juvenile corrective sanctions supervision, juvenile aftercare supervision or, if the participant is 17 years of age or over, adult intensive sanctions supervision. Also, under current law, DOC may transfer a juvenile who is placed in a juvenile secured correctional facility to the Racine Youthful Offender Correctional Facility, which is a medium security adult correctional institution for offenders 15 to 21 years of age, if the juvenile is 15 years of age or over and the conduct of the juvenile in the juvenile secured correctional facility presents a serious problem to the juvenile or others.

The Wisconsin supreme court recently held, however, in *State of Wisconsin v. Hezzie R.*, 219 Wis. 2d 849 (1998), that subjecting a juvenile who has no right to a trial by jury under the juvenile justice code to placement in an adult prison violates the juvenile's constitutional right to a trial by jury because placement in an adult prison constitutes criminal punishment rather than juvenile rehabilitation. Accordingly, this bill eliminates the authority of DOC to transfer a juvenile who has been adjudicated delinquent to an adult prison, including the Intensive Sanctions Program, which is defined in the statutes as a state prison.

Current law contains conflicting provisions relating to the age under which a juvenile who has been sentenced to an adult prison (juvenile prisoner) must be placed in a juvenile secured correctional facility and the age at which a juvenile prisoner may be transferred to an adult prison. One provision requires DOC to keep juvenile

prisoners under 15 years of age in a juvenile secured correctional facility, another provision requires DOC to keep juvenile prisoners under 16 years of age in a juvenile secured correctional facility, and another provision does not permit DOC to transfer a juvenile prisoner to an adult prison until the juvenile attains 17 years of age. This bill provides a uniform age of 15 years at which DOC may transfer a juvenile prisoner to an adult prison.

Under current law, a participant in the SJOP who has committed a Class A felony may be placed in a juvenile secured correctional facility or an adult prison until the participant has reached 25 years of age and a participant in the SJOP who has committed a Class B felony may be placed in such a facility or prison for not more than three years. This bill permits the juvenile court to extend the period for which a participant in the SJOP may be placed in a juvenile secured correctional facility for not more than an additional two years if the juvenile court finds that the participant is in need of the supervision, care, and rehabilitation that a placement in a juvenile secured correctional facility provides and that public safety considerations require that the participant be placed in such a facility. The bill also permits DOC to extend the period for which a participant in the SJOP may be placed in a juvenile secured correctional facility for not more than an additional 30 days without a hearing, unless DOC provides for a hearing by rule. In addition, the bill specifies that a 30–day extension under the bill does not preclude a two–year extension under the bill, and vice versa.

Under current law, a juvenile may be taken into custody under circumstances in which a law enforcement officer believes, on reasonable grounds, that the juvenile has violated the terms of supervision ordered by the juvenile court or the terms of aftercare supervision administered by DOC or a county department of human services or social services (county department). A juvenile who has been taken into custody on that ground may be held in custody if probable cause exists to believe that the juvenile will run away so as to be unavailable for proceedings of the juvenile court or proceedings for revocation of aftercare supervision. This bill permits a juvenile who has violated a condition of the juvenile's placement in a Type 2 secured correctional facility or a Type 2 child caring institution (Type 2 CCI) or a condition of the juvenile's participation in the Intensive Sanctions Program to be taken into custody by a law enforcement officer and held in custody if the juvenile is at risk of running away so as to be unavailable for action by DOC or a county department relating to that violation.

Type 2 secured correctional facilities consist of the Corrective Sanctions Program, under which DOC places a juvenile in the community and provides the juvenile with intensive surveillance and community–based treatment services, the SJOP, and CCIs that DOC has designated as Type 2 secured correctional facilities for the placement of certain juveniles who have been adjudged delinquent. Similarly, Type 2 CCIs consist of CCIs that DOC has designated for the placement of certain juveniles who have been adjudged delinquent and placed under the supervision of a county department. The Intensive Supervision Program is a program under which

a juvenile is placed in the community and the county department provides the juvenile with intensive surveillance and community–based treatment services.

Under current law, DOC must provide a juvenile boot camp program for juveniles who have been adjudged delinquent and placed under the supervision of DOC. This bill eliminates that program.

Currently, DOC must provide an average of $3,000 per year per slot to purchase community–based treatment services for each participant in the Corrective Sanctions Program. This bill requires DOC to provide an average of *not more than* $3,000 per year per slot to purchase those services.

COURTS AND PROCEDURE

PUBLIC DEFENDER

Under current law, the state public defender may not provide legal services or assign an attorney to an adult in a criminal case if the adult is not in custody and has not been charged with a crime. Likewise, the state public defender may not provide legal services or assign an attorney to a child in a juvenile case if the child is not in custody and is not yet subject to a proceeding under the children's code or the juvenile justice code in which an attorney must or may be appointed. This bill eliminates both of those prohibitions.

Under current law, judges may sentence misdemeanor offenders to pay a fine not to exceed $10,000 or to serve up to nine months in jail, or both, for each criminal violation classified as a misdemeanor. This bill directs the public defender board, in conjunction with the director of state courts and the Wisconsin District Attorneys Association, to submit to DOA by July 1, 2002, a proposal recommending alternative charging and sentencing options for misdemeanor offenders and, if DOA approves the proposal, to implement the portions of the proposal that do not require changes to state law. The bill permits DOA to earmark up to $2,000,000 in fiscal year 2002–03 for implementation of portions of the proposal approved by DOA.

CIRCUIT COURTS

Under current law, if a court knows that a person, including one charged with a crime, subject to juvenile court proceedings, or subject to mental health proceedings, is unable to communicate and understand English because of a language difficulty or a disability, the court must tell the person that he or she has the right to an interpreter. If the person is indigent, the court must provide an interpreter at the public's expense. Current law also allows courts to use interpreters in other court proceedings and allows agencies to use interpreters in contested cases.

Under this bill, the court must provide a qualified interpreter to those persons who are eligible for an interpreter. A "qualified interpreter" is one who is able to readily communicate with the person, translate the meaning of statements to and from English in the court–related proceedings, and accurately interpret, in a manner that conserves the meaning, tone, and style of the original statement. Under the bill,

the clerk of court may provide a qualified interpreter to assist a person with limited English proficiency when that person asks the court for assistance regarding a legal proceeding, such as how to bring an action to obtain a domestic abuse injunction. The bill allows a person with limited English proficiency to waive the appointment of an interpreter if the court determines on the record that the waiver has been made knowingly, intelligently, and voluntarily, and allows the person to retract that waiver at any time during the court proceedings for good cause.

Currently, a special prosecution fee of $2 is collected by the Milwaukee County clerk of circuit court whenever a circuit court fee is imposed in civil actions to pay the costs of clerks in Milwaukee County in violent crime cases and cases involving felony drug violations. This bill deletes this fee.

OTHER COURTS AND PROCEDURE

Current law prohibits trial, conviction, and sentencing of a person accused of committing an offense if the person lacks sufficient mental capacity to understand the proceeding and to assist in his or her own defense. If there is reason to doubt a person's mental capacity, the court presiding over the proceeding must appoint a mental health expert to examine the defendant. Current law requires that DHFS provide $484,300 annually to Milwaukee County to pay for competency examinations in that county.

This bill eliminates the designation of Milwaukee County as the recipient agency of DHFS funding for competency examinations, leaving DHFS discretion to select the recipient agency or agencies. The bill also removes the specification of a dollar amount that DHFS must provide for competency examinations in Milwaukee County.

Under current law, if there are no heirs of a decedent in an intestate estate (an estate in which the decedent did not leave a will), or if a legacy or distributive share in an estate cannot be paid to the distributee or is not claimed by the distributee within 120 days after entry of the final judgment, the property escheats to the state and is paid or delivered to the state treasurer (treasurer). The treasurer must publish notice in the official state newspaper with information concerning the estate and the escheated property. Within ten years after the notice is published, a person may make a claim against the escheated property by filing a petition with the probate court that settled the estate and sending copies of the petition to DOR and the attorney general. If the person establishes his or her claim in a court hearing, the court certifies the claim to DOA, which audits the claim; issues an order for any death tax due; and issues an order distributing the estate. The treasurer pays the claim.

Under this bill, the treasurer must publish a notice regarding escheated property at least annually (current law specifies no time requirement); a person filing a petition with the probate court must send a copy of the petition to the treasurer, instead of to DOR; the court is no longer required to certify a claim to DOA, which is no longer required to audit claims; and the court is no longer required to issue an order for any death tax due.

The bill also provides a new, optional procedure for making a claim against escheated property that does not exceed $5,000. Rather than filing a petition with the probate court, a person claiming such property may, within ten years after publication by the treasurer of notice regarding the estate and the escheated property, file a claim with the treasurer. If the treasurer allows the claim, the treasurer files written notice of the allowed claim, as well as written consent of the attorney general, with the probate court, which must issue an order requiring the treasurer to pay the claim. If the treasurer disallows a claim or does not act on a claim within 90 days after it is filed, the person who filed the claim may file an action in the probate court that settled the estate to establish the claim.

Under current law, DATCP administers, investigates, and enforces certain consumer protection and trade practice laws and prosecutes violations of these laws. A person found to have violated one of these laws may be subject to a forfeiture (civil monetary penalty) or a fine. If a court imposes a fine or forfeiture, current law requires the court to impose an assessment equal to 15% of the fine or forfeiture. This bill raises the assessment to 25% of the fine or forfeiture. Currently, the assessments are used by DATCP to pay for providing consumers with information and education. This bill expands the purpose for which these assessments may be used to include all other consumer protection activities conducted by DATCP.

CRIMES

CRIMINAL SENTENCES

The structure of felony sentences under current law

Under current law, if a person committing a felony before December 31, 1999, is sentenced to prison for a term of years, the person receives an indeterminate sentence, which typically consists of a term of confinement followed by parole. The person's term of confinement is not fixed when the sentence is imposed. He or she may be released on parole after serving as little as one–fourth of the sentence.

Current law provides a separate system for prison sentences for crimes committed on or after December 31, 1999. If a court chooses to sentence a felony offender to imprisonment in a state prison (other than through a life sentence) for a felony committed on or after December 31, 1999, the court must do so by imposing a bifurcated sentence, under which the offender initially serves a fixed term of confinement in prison of at least one year. The maximum term of confinement under a bifurcated sentence for felonies classified in the criminal code ranges from two to 40 years. If the person is being sentenced to prison for an unclassified felony, the term of confinement in prison portion of the sentence may not exceed 75% of the total length of the bifurcated sentence.

An offender is not eligible for parole under a bifurcated sentence. Instead, after serving the term of confinement portion of the bifurcated sentence, he or she serves a fixed term of extended supervision as the second part of the bifurcated sentence.

Concurrent and consecutive sentences

Under current law, a court may order any sentence to be served concurrent with or consecutive to any other sentence imposed at the same time or previously. This bill specifies how the person will serve the periods of confinement and the periods of extended supervision and parole under the sentences under the following circumstances: 1) when the court requires a sentence under which the person may be placed on extended supervision (a "determinate sentence") to be served concurrent with or consecutive to another determinate sentence; 2) when the court requires a determinate sentence to be served concurrent with or consecutive to an indeterminate sentence; or 3) when the court requires an indeterminate sentence to be served concurrent with or consecutive to a determinate sentence. The bill also requires that a person sentenced to consecutive indeterminate and determinate sentences serve the term of extended supervision under the determinate sentence before serving the period of parole under the indeterminate sentence, regardless of the order in which the crimes were committed or the sentences imposed.

Penalties for criminal attempts

Current law specifies that the maximum penalty for an attempt to commit a felony (other than certain felonies having separate penalties for attempts) is one–half of the maximum penalty for the completed crime. This bill specifies that the maximum term of confinement under a bifurcated sentence imposed for an attempt to commit a classified felony is one–half of the maximum term of confinement for the completed crime. The bill also specifies that the maximum term of confinement under a bifurcated sentence imposed for an attempt to commit an unclassified felony is 75% of the maximum length of the bifurcated sentence for the attempt.

Other sentencing changes

This bill specifies that, if a court, through the application of one or more sentence enhancers, decides to sentence a misdemeanant to prison, the court must impose a bifurcated sentence. In such a case, the term of confinement in prison may not constitute more than 75% of the bifurcated sentence.

Under current law, the maximum term of probation for a misdemeanor is two years, and the maximum term of probation for a felony is the maximum sentence length for the crime or three years, whichever is greater. Under this bill, the maximum term of probation for a felony or for a misdemeanor for which a court may impose a bifurcated sentence is the maximum term of confinement in prison for the crime or three years, whichever is greater.

Under current law, if a person is found not guilty of a crime by reason of mental disease or mental defect and the crime is not punishable by life imprisonment, the person may be committed to DHFS for a maximum term of two–thirds of the maximum sentence length for the crime. Under this bill, the maximum term of commitment for a felony other than one punishable by life imprisonment or for a

misdemeanor for which a court may impose a bifurcated sentence is the maximum term of confinement that could be imposed on a person convicted of the crime.

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. This bill increases the penalties for violations of these prohibitions that occur under specified circumstances.

This bill also 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.

In addition, the bill authorizes courts to enhance the penalties for violations of either 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.

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. 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).

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 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. The Wisconsin supreme court has ruled that prohibiting 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.

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; 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; 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. This 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

This 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.

Statute of limitations for sexual assault

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.

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 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, GHB, GBL, ecstasy, nexus, ketamine, and flunitrazepam to the same level as violations involving the genuine drugs.

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. 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.

EDUCATION

PRIMARY AND SECONDARY EDUCATION

This bill requires DPI to designate a school district as a school district with expanded flexibility if its 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; its high school graduation rate at least equaled the statewide average high school graduation rate; and its 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 decentralized school districts.

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 schools, as opposed to school districts, which 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 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.

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.

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 then 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 DPI 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 DPI to promulgate rules that, to the extent feasible, protect the security and confidentiality of the examinations.

Currently, DPI 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.

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.

Under current law, 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–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.

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. The bill also directs DPI to notify the private school by March 1 whether the private school is eligible to participate in the MPCP. 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.

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.

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.

Under current law, a person must hold a license to teach granted by DPI in order to teach 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.

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.

Current law requires DPI to revoke, without a hearing, a license granted by DPI if the licensee is convicted of any of a number of specified crimes. In addition, DPI may revoke a license, with a hearing, if the licensee is incompetent or behaves immorally. This bill requires DPI 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 DPI 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 DPI from granting a license to a person convicted of a number of specified crimes or of crime in another country or state that is equivalent to one of the specified crimes. This bill prohibits DPI 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 DPI all records relating to an employee or former employee of the educational agency who is licensed by DPI if DPI has commenced an investigation to determine whether to initiate license limitation, suspension, or revocation proceedings. The bill also requires DPI 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 DPI. This bill requires DPI 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 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.

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, 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 aid paid to school districts and the Milwaukee charter schools for special 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 bill also provides supplemental special education aid to school districts, CESAs, counties, and Milwaukee charter school operators 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.

This bill provides that the individualized education program team, appointed by a local educational agency or LEA (a school district, CESA, county, or Milwaukee

charter school operator) 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.

The bill directs DPI 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.

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.

Under current law, if a school district exceeds its revenue limit, DPI 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 DPI 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.

This bill provides that DPI'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. Under article XI, section 3 (3), of the Wisconsin Constitution, when a school district borrows money it must levy an irrepealable tax sufficient to pay the principal of and interest on the debt.

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 determining its unused revenue–limit authority and multiplying the

difference between the remainder and the amount of additional September aid by 0.75. 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.

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.

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.

Current law guarantees that a school district will receive in "special adjustment aid" sufficient funds to ensure that it receives 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.

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

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. 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. 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 *impact* of any school calendar decision on wages, hours, and conditions of employment.

Current law authorizes the MPS board to contract with any nonsectarian private school located in the city to provide educational programs for pupils enrolled in the school district (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). This bill extends the educational services, school closing, and collective bargaining statutes to cover all school boards.

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. 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.

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.

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.

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.

Currently, 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. 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.

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.

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.

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.

This bill prohibits DPI 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.

This bill directs DPI 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.

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

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. 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.

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.

This bill requires DPI to charge school districts a fee for the use of BadgerLink, which provides statewide access, through the Internet, to periodical and reference information databases.

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.

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.

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.

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.

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.

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.

Currently, the technical college system (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.

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.

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.

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.

This bill directs the governor to appoint a committee to study the feasibility of consolidating the UW System two–year colleges and the TCS and to report its findings to DOA by January 1, 2002.

This bill directs the 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.

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, 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 the College Savings Program is administered by the college savings board (board), which 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 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.

OTHER EDUCATIONAL AND CULTURAL AGENCIES

Under current law, the educational communications board (ECB) is responsible for overseeing the provision of public broadcasting in 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.

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 technology for educational achievement in Wisconsin (TEACH) board. This bill makes certain secured correctional facilities for juvenile delinquency and the UW–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.

This bill directs the TEACH board to award grants to school districts in the 2001–03 fiscal biennium to train pupils to provide educational technology support services.

Under current law, the 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.

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

This bill eliminates all provisions under current law regarding the foundation. In addition, the bill provides that $2,000,000 of the moneys that are received by DOA 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.

The bill also provides that the following moneys that are received by DOA are transferred to the 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 awarded by the foundation.

In addition, the bill provides that the following moneys that are received by DOA 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 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.