

ASSEMBLY BILL 1038

SECTION 62

1 SECTION 62. 118.38 (4) of the statutes is created to read:

2 118.38 (4) (a) During the public health emergency declared on March 12, 2020,  
3 by executive order 72, if schools are closed for at least 10 school days in a school year  
4 by a local health officer, as defined in s. 250.01 (5), or the department of health  
5 services, the department may do all of the following:

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6 1. Waive any requirement in chs. 115 to 121 or the administrative rules  
7 promulgated by the department under the authority of those chapters related to any  
8 of the following:

- 9 a. A program under s. 115.7915, 118.60, or 119.23.
- 10 b. A private school participating in a program under s. 115.7915, 118.60, or
- 11 119.23.
- 12 c. A charter school under s. 118.40 (2r) or (2x), including any requirement
- 13 related to an authorizer, governing board, or operator of a charter school under s.
- 14 118.40 (2r) or (2x).

15 2. Establish an alternate deadline for any requirement related to a program  
16 under s. 115.7915, 118.60, or 119.23 in chs. 115 to 121 and any requirement related  
17 to a program under s. 115.7915, 118.60, or 119.23 in the administrative rules  
18 promulgated by the department under the authority of chs. 115 to 121 if the original  
19 deadline is any of the following:

20 a. A deadline that occurs during the period beginning on the first day schools  
21 are closed by the local health officer or department of health services and ending 120  
22 days after the last day schools are closed by the local health officer or department of  
23 health services.

24 b. A deadline for a requirement that impacts a date during the period beginning  
25 on the first day schools are closed by the local health officer or department of health

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1 services and ending 120 days after the last day schools are closed by the local health  
2 officer or department of health services.

3 (b) 1. The department shall notify the legislative reference bureau of each  
4 waiver under par. (a) 1. and alternate deadline established under par. (a) 2. The  
5 legislative reference bureau shall publish a notice in the Wisconsin Administrative  
6 Register of the waiver or alternate deadline.

7 2. The department shall post each waiver under par. (a) 1. and alternate  
8 deadline established under par. (a) 2. on the department's Internet site.

9 (c) A waiver under par. (a) 1. applies only to the school year in which schools  
10 are closed by the local health officer or the department of health services.

11 SECTION 63. 118.60 (7) (an) 1. of the statutes is amended to read:

12 118.60 (7) (an) 1. A private school participating in the program under this  
13 section shall maintain a cash and investment balance that is at least equal to its  
14 reserve balance. If a private school does not maintain a cash and investment balance  
15 that is at least equal to its reserve balance, the private school shall refund the reserve  
16 balance to the department. This subdivision does not apply to a school year that  
17 occurs during the public health emergency declared on March 12, 2020, by executive  
18 order 72.

19 3. If a private school ceases to participate in or is barred from the program  
20 under this section and s. 119.23 and the private school's reserve balance is positive,  
21 the private school shall refund the reserve balance to the department.

22 SECTION 64. 118.60 (12) of the statutes is created to read:

23 118.60 (12) During the public health emergency declared on March 12, 2020,  
24 by executive order 72, if a private school participating in the program under this  
25 section is closed for at least 10 school days in a school year by a local health officer,

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**ASSEMBLY BILL 1038****SECTION 64**

1 as defined in s. 250.01 (5), or the department of health services, in the school year  
2 during which the school is closed and the following school year, the department may  
3 not withhold payment from the private school under sub. (10) (d) or bar the private  
4 school from participating in the program under sub. (10) (a), (am), or (ar) for failing  
5 to comply with a requirement under this section or a rule promulgated under this  
6 section if all of the following occur:

7 (a) The private school submits information to the department that explains  
8 how the school closure impacted the private school's ability to comply with the  
9 requirement and any action the private school took to mitigate the consequences of  
10 not complying with the requirement.

11 (b) The department determines that the private school's failure to comply with  
12 the requirement was caused by the closure.

13 **SECTION 65.** 119.23 (7) (an) 1. of the statutes is amended to read:

14 119.23 (7) (an) 1. A private school participating in the program under this  
15 section shall maintain a cash and investment balance that is at least equal to its  
16 reserve balance. If a private school does not maintain a cash and investment balance  
17 that is at least equal to its reserve balance, the private school shall refund the reserve  
18 balance to the department. This subdivision does not apply to a school year that  
19 occurs during the public health emergency declared on March 12, 2020, by executive  
20 order 72.

21 3. If a private school ceases to participate in or is barred from the program  
22 under this section and s. 118.60 and the private school's reserve balance is positive,  
23 the private school shall refund the reserve balance to the department.

24 **SECTION 66.** 119.23 (12) of the statutes is created to read:

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1           119.23 (12) During the public health emergency declared on March 12, 2020,  
2 by executive order 72, if a private school participating in the program under this  
3 section is closed for at least 10 school days in a school year by a local health officer,  
4 as defined in s. 250.01 (5), or the department of health services, in the school year  
5 during which the school is closed and the following school year, the department may  
6 not withhold payment from the private school under sub. (10) (d) or bar the private  
7 school from participating in the program under sub. (10) (a), (am), or (ar) for failing  
8 to comply with a requirement under this section or a rule promulgated under this  
9 section if all of the following occur:

10           (a) The private school submits information to the department that explains  
11 how the school closure impacted the private school's ability to comply with the  
12 requirement and any action the private school took to mitigate the consequences of  
13 not complying with the requirement.

14           (b) The department determines that the private school's failure to comply with  
15 the requirement was caused by the closure.

16           **SECTION 67.** 119.33 (2) (b) 3. b. of the statutes is amended to read:

17           119.33 (2) (b) 3. b. A person who is operating a charter school. The  
18 superintendent of schools may proceed under this subd. 3. b. only if one of the  
19 following applies: the performance on the most recent examinations administered  
20 under s. 118.30 (1r) of pupils attending a school operated by the person exceeds the  
21 performance on the most recent examinations administered under s. 118.30 (1) of  
22 pupils attending the school being transferred to the person under this subdivision;  
23 or, in each of the 3 preceding consecutive accountability reports published under s.  
24 115.385 (1), the performance category assigned to a school operated by the person on  
25 accountability reports published under s. 115.385 (1) for the school in each of the 3

**ASSEMBLY BILL 1038****SECTION 67**

1 ~~preceding consecutive school years~~ exceeds the performance category assigned to the  
2 school being transferred to the person under this subdivision ~~in each of the 3~~  
3 ~~preceding consecutive school years~~. If fewer than 3 accountability reports have been  
4 published for a charter school described in this subd. 3. b., the superintendent of  
5 schools shall determine an alternative method for comparing the school's  
6 performance.

7 **SECTION 68.** 119.33 (2) (b) 3. c. of the statutes is amended to read:

8 119.33 (2) (b) 3. c. The governing body of a nonsectarian private school  
9 participating in a program under s. 118.60 or 119.23. The superintendent of schools  
10 may proceed under this subd. 3. c. only if one of the following applies: the  
11 performance on the most recent examinations administered under s. 118.30 (1s) or  
12 (1t) of pupils attending a school operated by the governing body exceeds the  
13 performance on the most recent examinations administered under s. 118.30 (1) of  
14 pupils attending the school being transferred to the governing body under this  
15 subdivision; or, in each of the 3 preceding consecutive accountability reports  
16 published under s. 115.385 (1), the performance category assigned to a school  
17 operated by the governing body ~~on accountability reports published under s. 115.385~~  
18 ~~(1) for the school in each of the 3 preceding consecutive school years~~ exceeds the  
19 performance category assigned to the school being transferred to the governing body  
20 under this subdivision ~~in each of the 3 preceding consecutive school years~~. If fewer  
21 than 3 accountability reports have been published for a private school described in  
22 this subd. 3. c., the superintendent of schools shall determine an alternative method  
23 for comparing the school's performance.

24 **SECTION 69.** 119.33 (5) (b) 2. of the statutes is amended to read:

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## SECTION 69

1           119.33 (5) (b) 2. The school district operating under this chapter has been  
2 assigned in the ~~3 most recent school years~~ a performance category of “fails to meet  
3 expectations” on the 3 most recent accountability ~~report~~ reports published under s.  
4 115.385 (1).

5           **SECTION 70.** 119.9002 (2) (d) 2. a. of the statutes is amended to read:

6           119.9002 (2) (d) 2. a. The performance, on the most recent examinations  
7 administered under s. 118.30 (1r), of pupils attending a school operated by the person  
8 exceeds the performance, on the most recent examinations administered under s.  
9 118.30 (1), of pupils attending the school being transferred to the person under this  
10 subdivision.

11           **SECTION 71.** 119.9002 (2) (d) 2. b. of the statutes is amended to read:

12           119.9002 (2) (d) 2. b. ~~The~~ In each of the 3 preceding consecutive accountability  
13 reports published under s. 115.385 (1), the performance category assigned to a school  
14 operated by the person ~~on accountability reports published under s. 115.385 (1) for~~  
15 ~~the school in each of the 3 preceding consecutive school years~~ exceeds the  
16 performance category assigned to the school being transferred to the person under  
17 this subdivision ~~in each of the 3 preceding consecutive school years~~. If fewer than  
18 3 accountability reports have been published for a school described in this subd. 2.  
19 b., the commissioner shall determine an alternative method for comparing the  
20 school’s performance.

21           **SECTION 72.** 119.9002 (2) (d) 3. a. of the statutes is amended to read:

22           119.9002 (2) (d) 3. a. The performance, on the most recent examinations  
23 administered under s. 118.30 (1s) or (1t), of pupils attending a school operated by the  
24 governing body exceeds the performance, on the most recent examinations

1 administered under s. 118.30 (1), of pupils attending the school being transferred to  
2 the governing body under this subdivision.

3 SECTION 73. 119.9002 (2) (d) 3. b. of the statutes is amended to read:

4 119.9002 (2) (d) 3. b. ~~The~~ In each of the 3 preceding consecutive accountability  
5 reports published under s. 115.385 (1), the performance category assigned to a school  
6 operated by the governing body ~~on accountability reports published under s. 115.385~~  
7 ~~(1) for the school in each of the 3 preceding consecutive school years~~ exceeds the  
8 performance category assigned to the school being transferred to the governing body  
9 under this subdivision ~~in each of the 3 preceding consecutive school years~~. If fewer  
10 than 3 accountability reports have been published for a private school described in  
11 this subd. 3. b., the commissioner shall determine an alternative method for  
12 comparing the school's performance.

13 SECTION 74. 119.9004 (3) (b) 2. of the statutes is amended to read:

14 119.9004 (3) (b) 2. The school district operating under this chapter has been  
15 assigned in the ~~3 most recent school years~~ <sup>strike space</sup> a performance category of "fails to meet  
16 expectations" on the 3 most recent accountability report ~~reports~~ published under s.  
17 115.385 (1).

18 SECTION 75. 120.13 (2) (g) of the statutes is amended to read:

19 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.  
20 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2.,  
21 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.867, 632.87 (4) to (6), 632.885,  
22 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

23 SECTION 76. 146.40 (3) of the statutes is amended to read:

24 146.40 (3) Except as provided in sub. (4d), the department shall approve  
25 instructional programs for nurse aides that apply for, and satisfy standards for,

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1 approval that are promulgated by rule by the department. The department may not  
2 require an instructional program to exceed the federally required minimum total  
3 training hours or minimum hours of supervised practical training under 42 CFR  
4 483.152 (a). The department shall review the curriculum of each approved  
5 instructional program at least once every 24 months following the date of approval  
6 to determine whether the program continues to satisfy the standards for approval.  
7 Under this subsection, the department may, after providing notice, suspend or  
8 revoke the approval of an instructional program or impose a plan of correction on the  
9 program if the program fails to satisfy the standards for approval or operates under  
10 conditions that are other than those contained in the application approved by the  
11 department.

12 SECTION 77. 153.23 of the statutes is created to read:

13 153.23 Public health emergency dashboard. (1) *In this section* "Public health *ccc*  
14 emergency related to the 2019 novel coronavirus" means the period covered by any *1.*  
15 of the following:

16 (a) The national emergency declared by the U.S. president under 50 USC 1621  
17 on March 13, 2020, in response to the 2019 novel coronavirus.

18 (b) The public health emergency declared under 42 USC 247d by the secretary  
19 of the federal department of health and human services on January 31, 2020, in  
20 response to the 2019 novel coronavirus.

21 (c) The state of emergency related to public health declared under s. 323.10 on  
22 March 12, 2020, by executive order 72.

23 (2) During the public health emergency related to the 2019 novel coronavirus,  
24 the entity under contract under s. 153.05 (2m) (a) shall prepare and publish a public  
25 health emergency dashboard using health care emergency preparedness program



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1 information collected by the state from acute care hospitals. A dashboard published  
2 under this section shall include information to assist emergency response planning  
3 activities. For purposes of this section, the entity and the department shall enter into  
4 a data use agreement and mutually agree to the health care emergency preparedness  
5 program information the department will provide to the entity, the information the  
6 entity will include in the dashboard, any publication schedule, and any other terms  
7 considered necessary by the entity or the department.

8 **SECTION 78.** 185.983 (1) (intro.) of the statutes is amended to read:

9 185.983 (1) (intro.) Every voluntary nonprofit health care plan operated by a  
10 cooperative association organized under s. 185.981 shall be exempt from chs. 600 to  
11 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44,  
12 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93,  
13 631.95, 632.72 (2), 632.729, 632.745 to 632.749, 632.775, 632.79, 632.795, 632.798,  
14 632.85, 632.853, 632.855, 632.867, 632.87 (2) to (6), 632.885, 632.89, 632.895 (5) and  
15 (8) to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645, and 646, but  
16 the sponsoring association shall:

17 **SECTION 79.** 323.19 (3) of the statutes is created to read:

18 323.19 (3) Based on guidance provided by the secretary of health services, the  
19 head of each state agency and each local health department shall determine which  
20 public employee positions within the respective state agency or local government are  
21 critical during the public health emergency declared on March 12, 2020, by executive  
22 order 72, for the purposes of s. 40.26 (5m) and (6) (b).

23 **SECTION 80.** 323.19 (4) of the statutes is created to read:

24 323.19 (4) (a) In this subsection, "state entity" means any state agency,  
25 institution of higher education, association, society, or other body in state

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1 government created or authorized to be created by the constitution or any law that  
2 is entitled to expend moneys appropriated by law, including the legislature, the  
3 courts, and any authority.

4 (b) During the public health emergency declared on March 12, 2020, by  
5 executive order 72, the head or governing body of a state entity may waive a  
6 requirement imposed, administered, or enforced by the state entity that an  
7 individual appear in person if the head or governing body finds that the waiver  
8 assists in the state's response to the public health emergency or that enforcing the  
9 requirement may increase the public health risk.

10 **SECTION 81.** 323.265 of the statutes is created to read:

11 **323.265 Suspension of certain deadlines and training requirements**  
12 **during a public health emergency. (1) DEFINITIONS.** In this section:

13 (a) "Agency" means any office, department, agency, institution of higher  
14 education, association, society, or other body in state government created or  
15 authorized to be created by the constitution or any law, including any authority  
16 created in subch. II of ch. 114 or in ch. 231, 232, 233, 234, 237, 238, or 279, the  
17 legislature, or the courts.

18 (b) "Deadline" means any date certain by which, or any other limitation as to  
19 time within which, an action or event is required to occur.

20 (c) "Emergency period" means the period covered by the public health  
21 emergency declared on March 12, 2020, by executive order 72, plus 30 days.

22 (d) "Local governmental unit" means a political subdivision of this state, a  
23 special purpose district in this state, an agency or corporation of a political  
24 subdivision or special purpose district, or a combination or subunit of any of the  
25 foregoing.

**ASSEMBLY BILL 1038****SECTION 81**

1           **(2) DEADLINES.** (a) Each agency or local governmental unit may toll for the  
2 duration of an emergency period any deadline falling within that period that the  
3 agency or local governmental unit administers or enforces. The agency or local  
4 governmental unit may not charge any interest or penalty that would otherwise  
5 apply with respect to the tolled deadline.

6           (b) Paragraph (a) does not apply to all of the following:

7           1. Any deadline with respect to the filing or payment of a tax for which the  
8 revenue is deposited or is expected to be deposited in the general fund, a tax or fee  
9 for which the revenue is deposited or is expected to be deposited in the transportation  
10 fund, or a property tax.

11           2. The date on which an election, as defined in s. 5.02 (4), is to be held, and any  
12 deadline relating to an election.

13           **(3) TRAINING REQUIREMENTS.** During an emergency period, each agency or local  
14 governmental unit may suspend any training requirement associated with any  
15 program the agency or local unit of government administers or enforces.

16           **SECTION 82.** 323.2911 of the statutes is created to read:

17           **323.2911 Public employee health insurance coverage.** Notwithstanding  
18 s. 40.02 (40), for the purpose of group health insurance coverage offered by the group  
19 insurance board under subch. IV of ch. 40, if an employee who was on a leave of  
20 absence returns from leave, even if the employee has not resumed active  
21 performance of duty for 30 consecutive calendar days on March 12, 2020, due to the  
22 public health emergency declared by executive order 72, the leave of absence is  
23 deemed ended or interrupted on that date.

24           **SECTION 83.** 323.2912 of the statutes is created to read:

**ASSEMBLY BILL 1038****1           323.2912     Suspension of limited term appointment hours.**

2     Notwithstanding s. 230.26 (1), the director of the bureau of merit recruitment and  
3     selection in the division of personnel management in the department of  
4     administration may increase or suspend the number of hours for a limited term  
5     appointment for the duration of the public health emergency declared on March 12,  
6     2020, by executive order 72.

7           **SECTION 84.** 323.2913 of the statutes is created to read:

8           **323.2913 Use of annual leave during probationary period by state**  
9     **employee.** Notwithstanding s. 230.35 (1) (b), a state employee may take annual  
10    leave within the first 6 months of the employee's probationary period upon initial  
11    appointment during the public health emergency declared on March 12, 2020, by  
12    executive order 72. If an employee who has taken annual leave under this section  
13    terminates his or her employment before earning annual leave equivalent to the  
14    amount of annual leave the employee has taken, the appointing authority shall  
15    deduct the cost of the unearned annual leave from the employee's final pay.

16           **SECTION 85.** 323.2915 of the statutes is created to read:

17           **323.2915 State civil service grievance procedures.** (1) Notwithstanding  
18    s. 230.445 (2) and (3), an employee does not waive his or her right to appeal an  
19    adverse employment decision if the employee does not timely file the complaint or  
20    appeal during the public health emergency declared on March 12, 2020, by executive  
21    order 72. The tolling period under s. 230.445 (3) (a) 1. begins 14 days after the  
22    termination of such public health emergency.

23           (2) Notwithstanding s. 230.445 (3) (a) 2., an appointing authority or his or her  
24    designee is not required to meet with a complainant in person during the public

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1 health emergency declared on March 12, 2020, by executive order 72, when  
2 conducting an investigation under s. 230.445 (3) (a) 2.

3 **SECTION 86.** 440.08 (5) of the statutes is created to read:

4 440.08 (5) RENEWAL SUSPENSION FOR PUBLIC HEALTH EMERGENCY. (a) In this  
5 subsection, "health care provider credential" means any credential issued under ch.  
6 441, 447, 448, 450, 455, 460, or 462.

7 (b) Notwithstanding subs. (1) to (3) and the applicable provisions in chs. 440  
8 to 480, but subject to any professional discipline imposed on the credential, a health  
9 care provider credential is not subject to renewal, or any other conditions for renewal  
10 including continuing education, and remains valid during the period specified in par.  
11 (c).

12 (c) For purposes of par. (b), the period shall be the period beginning on March  
13 12, 2020, and ending on the 60th day after the end of the period covered by the public  
14 health emergency declared on March 12, 2020, by executive order 72.

15 (d) A renewal that occurs subsequent to the period described in par. (c) is not  
16 subject to the late renewal fee under sub. (3) (a) if the application to renew the  
17 credential is received before the next applicable renewal date. Notwithstanding the  
18 applicable provisions in chs. 440 to 480, the applicable credentialing board may, for  
19 that next applicable renewal date, provide an exemption from or reduction of  
20 continuing education or other conditions for renewal.

21 **SECTION 87.** 450.11 (5) (a) of the statutes is amended to read:

22 450.11 (5) (a) Except as provided in ~~par.~~ pars. (bm) and (br), no prescription may  
23 be refilled unless the requirements of sub. (1) and, if applicable, sub. (1m) have been  
24 met and written, oral, or electronic authorization has been given by the prescribing  
25 practitioner. Unless the prescribing practitioner has specified in the prescription

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1 order that dispensing a prescribed drug in an initial amount followed by periodic  
2 refills as specified in the prescription order is medically necessary, a pharmacist may  
3 exercise his or her professional judgment to dispense varying quantities of the  
4 prescribed drug per fill up to the total number of dosage units authorized by the  
5 prescribing practitioner in the prescription order including any refills, subject to par.  
6 (b).

7 **SECTION 88.** 450.11 (5) (br) of the statutes is created to read:

8 450.11 (5) (br) 1. In the event a pharmacist receives a request for a prescription  
9 to be refilled and the prescription cannot be refilled as provided in par. (a), the  
10 pharmacist may, subject to subd. 2. a. to e., extend the existing prescription order and  
11 dispense the drug to the patient, if the pharmacist has not received and is not aware  
12 of written or oral instructions from the prescribing practitioner prohibiting further  
13 dispensing pursuant to or extension of the prescription order.

14 2. a. A prescribing practitioner may indicate, by writing on the face of the  
15 prescription order or, with respect to a prescription order transmitted electronically,  
16 by designating in electronic format the phrase "No extensions," or words of similar  
17 meaning, that no extension of the prescription order may be made under subd. 1. If  
18 such indication is made, the pharmacist may not extend the prescription order under  
19 subd. 1.

20 b. A pharmacist acting under subd. 1. may not extend a prescription order to  
21 dispense more than a 30-day supply of the prescribed drug, except that if the drug  
22 is typically packaged in a form that requires a pharmacist to dispense the drug in a  
23 quantity greater than a 30-day supply, the pharmacist may extend the prescription  
24 order as necessary to dispense the drug in the smallest quantity in which it is  
25 typically packaged.

1 c. A pharmacist may not extend a prescription order under subd. 1. for a drug  
2 that is a controlled substance.

3 d. A pharmacist may not extend a prescription order under subd. 1. for a  
4 particular patient if a prescription order was previously extended under subd. 1. for  
5 that patient during the period described in subd. 3.

6 e. A pharmacist shall, at the earliest reasonable time after acting under subd.  
7 1., notify the prescribing practitioner or his or her office, but is not required to  
8 attempt to procure a new prescription order or refill authorization for the drug by  
9 contacting the prescribing practitioner or his or her office prior to acting under subd.  
10 1. After acting under subd. 1., the pharmacist may notify the patient or other  
11 individual that any further refills will require the authorization of a prescribing  
12 practitioner.

13 3. This paragraph applies only during the public health emergency declared on  
14 March 12, 2020, by executive order 72, and for 30 days after the conclusion of that  
15 public health emergency. During that time, this paragraph supersedes par. (bm) to  
16 the extent of any conflict.

17 SECTION 89. 609.205 of the statutes is created to read:

18 609.205 Public health emergency for COVID-19. (1) In this section,  
19 "COVID-19" means an infection caused by the SARS-CoV-2 coronavirus.

20 (2) All of the following apply to a defined network plan or preferred provider  
21 plan during the state of emergency related to public health declared under s. 323.10  
22 on March 12, 2020, by executive order 72, or during the public health emergency  
23 declared under 42 USC 247d by the secretary of the federal department of health and  
24 human services in response to the COVID-19 pandemic.

and for the 60 days  
following the date that the state  
of emergency terminates

any  
8.

1 (a) The plan may not require an enrollee to pay, including cost sharing, for a  
2 service, treatment, or supply provided by a provider that is not a participating  
3 provider in the plan's network of providers more than the enrollee would pay if the  
4 service, treatment, or supply is provided by a provider that is a participating  
5 provider. This subsection applies to any service, treatment, or supply that is related  
6 to diagnosis or treatment for COVID-19 and to any service, treatment, or supply that  
7 is provided by a provider that is not a participating provider because a participating  
8 provider is unavailable due to the public health emergency.

9 (b) The plan shall reimburse a provider that is not a participating provider for  
10 a service, treatment, or supply provided under the circumstances described under  
11 par. (a) at 225 percent of the rate the federal Medicare program reimburses the  
12 provider for the same or a similar service, treatment, or supply in the same  
13 geographic area. <sup>APP4</sup> and for the 60 days following the date that the  
state of emergency terminates

14 (3) During the state of emergency related to public health declared under s.  
15 323.10 on March 12, 2020, by executive order 72, or during the public health  
16 emergency declared under 42 USC 247d by the secretary of the federal department  
17 of health and human services in response to the COVID-19 pandemic, all of the  
18 following apply to any health care provider or health care facility that provides a  
19 service, treatment, or supply to an enrollee of a defined network plan or preferred  
20 provider plan but is not a participating provider of that plan:

21 (a) The health care provider or facility shall accept as payment in full any  
22 payment by a defined network plan or preferred provider plan that is at least 225  
23 percent of the rate the federal Medicare program reimburses the provider for the  
24 same or a similar service, treatment, or supply in the same geographic area.



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1 (b) The health care provider or facility may not charge the enrollee for the  
2 service, treatment, or supply an amount that exceeds the amount the provider or  
3 facility is reimbursed by the defined network plan or preferred provider plan.

4 (4) The commissioner may promulgate any rules necessary to implement this  
5 section.

6 **SECTION 90.** 609.83 of the statutes is amended to read:

7 **609.83 Coverage of drugs and devices.** Limited service health  
8 organizations, preferred provider plans, and defined network plans are subject to ss.  
9 632.853 and 632.895 (16t) and (16v).

10 **SECTION 91.** 609.846 of the statutes is created to read:

11 **609.846 Discrimination based on COVID-19 prohibited.** Limited service  
12 health organizations, preferred provider plans, and defined network plans are  
13 subject to s. 632.729.

14 **SECTION 92.** 609.885 of the statutes is created to read:

15 **609.885 Coverage of COVID-19 testing.** Defined network plans, preferred  
16 provider plans, and limited service health organizations are subject to s. 632.895  
17 (14g).

18 **SECTION 93.** 625.12 (2) of the statutes is amended to read:

19 625.12 (2) CLASSIFICATION. ~~Risks~~ Except as provided in s. 632.729, risks may  
20 be classified in any reasonable way for the establishment of rates and minimum  
21 premiums, except that no classifications may be based on race, color, creed or  
22 national origin, and classifications in automobile insurance may not be based on  
23 physical condition or developmental disability as defined in s. 51.01 (5). Subject to  
24 ~~s. ss.~~ ss. 632.365 and 632.729, rates thus produced may be modified for individual risks  
25 in accordance with rating plans or schedules that establish reasonable standards for

1 measuring probable variations in hazards, expenses, or both. Rates may also be  
2 modified for individual risks under s. 625.13 (2).

3 **SECTION 94.** 628.34 (3) (a) of the statutes is amended to read:

4 628.34 (3) (a) No insurer may unfairly discriminate among policyholders by  
5 charging different premiums or by offering different terms of coverage except on the  
6 basis of classifications related to the nature and the degree of the risk covered or the  
7 expenses involved, subject to ss. 632.365, 632.729, 632.746 and 632.748. Rates are  
8 not unfairly discriminatory if they are averaged broadly among persons insured  
9 under a group, blanket or franchise policy, and terms are not unfairly discriminatory  
10 merely because they are more favorable than in a similar individual policy.

11 **SECTION 95.** 632.729 of the statutes is created to read:

12 **632.729 Prohibiting discrimination based on COVID-19. (1)**

13 DEFINITIONS. In this section:

14 (a) "COVID-19" means an infection caused by the SARS-CoV-2 coronavirus.

15 (b) "Health benefit plan" has the meaning given in s. 632.745 (11).

16 (c) "Pharmacy benefit manager" has the meaning given in s. 632.865 (1) (c).

17 (d) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

18 **(2) ISSUANCE OR RENEWAL.** (a) An insurer that offers an individual or group  
19 health benefit plan, a pharmacy benefit manager, or a self-insured health plan may  
20 not establish rules for the eligibility of any individual to enroll, for the continued  
21 eligibility of any individual to remain enrolled, or for the renewal of coverage under  
22 the plan based on a current or past diagnosis or suspected diagnosis of COVID-19.

23 (b) An insurer that offers a group health benefit plan, a pharmacy benefit  
24 manager, or a self-insured health plan may not establish rules for the eligibility of  
25 any employer or other group to enroll, for the continued eligibility of any employer

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1 or group to remain enrolled, or for the renewal of an employer's or group's coverage  
2 under the plan based on a current or past diagnosis or suspected diagnosis of  
3 COVID-19 of any employee or other member of the group.

4 (3) CANCELLATION. An insurer that offers an individual or group health benefit  
5 plan, a pharmacy benefit manager, or a self-insured health plan may not use as a  
6 basis for cancellation of coverage during a contract term a current or past diagnosis  
7 of COVID-19 or suspected diagnosis of COVID-19.

8 (4) RATES. An insurer that offers an individual or group health benefit plan,  
9 a pharmacy benefit manager, or a self-insured health plan may not use as a basis  
10 for setting rates for coverage a current or past diagnosis of COVID-19 or suspected  
11 diagnosis of COVID-19.

12 (5) PREMIUM GRACE PERIOD. An insurer that offers an individual or group health  
13 benefit plan, a pharmacy benefit manager, or a self-insured health plan may not  
14 refuse to grant to an individual, employer, or other group a grace period for the  
15 payment of a premium based on an individual's, employee's, or group member's  
16 current or past diagnosis of COVID-19 or suspected diagnosis of COVID-19 if a  
17 grace period for payment of premium would generally be granted under the plan.

18 **SECTION 96.** 632.895 (14g) of the statutes is created to read:

19 632.895 (14g) COVERAGE OF COVID-19 TESTING. (a) In this subsection,  
20 "COVID-19" means an infection caused by the SARS-CoV-2 coronavirus.

21 (b) Before March 13, 2021, every disability insurance policy, and every  
22 self-insured health plan of the state or of a county, city, town, village, or school  
23 district, that generally covers testing for infectious diseases shall provide coverage  
24 of testing for COVID-19 without imposing any copayment or coinsurance on the  
25 individual covered under the policy or plan.

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1           **SECTION 97.** 632.895 (16v) of the statutes is created to read:

2           **632.895 (16v) PROHIBITING COVERAGE LIMITATIONS ON PRESCRIPTION DRUGS.** (a)  
3           During the period covered by the state of emergency related to public health declared  
4           by the governor on March 12, 2020, by executive order 72, an insurer offering a  
5           disability insurance policy that covers prescription drugs, a self-insured health plan  
6           of the state or of a county, city, town, village, or school district that covers prescription  
7           drugs, or a pharmacy benefit manager acting on behalf of a policy or plan may not  
8           do any of the following in order to maintain coverage of a prescription drug:

9           1. Require prior authorization for early refills of a prescription drug or  
10          otherwise restrict the period of time in which a prescription drug may be refilled.

11          2. Impose a limit on the quantity of prescription drugs that may be obtained  
12          if the quantity is no more than a 90-day supply.

13          (b) This subsection does not apply to a prescription drug that is a controlled  
14          substance, as defined in s. 961.01 (4).

15          **SECTION 98.** 895.4801 of the statutes is created to read:

16          **895.4801 Immunity for health care providers during COVID-19**  
17          **emergency.** (1) **DEFINITIONS.** In this section:

18          (a) "Health care professional" means an individual licensed, registered, or  
19          certified by the medical examining board under subch. II of ch. 448 or the board of  
20          nursing under ch. 441.

21          (b) "Health care provider" has the meaning given in s. 146.38 (1) (b) and  
22          includes an adult family home, as defined in s. 50.01 (1).

23          (2) **IMMUNITY.** Subject to sub. (3), any health care professional, health care  
24          provider, or employee, agent, or contractor of a health care professional or health care  
25          provider is immune from civil liability for the death of or injury to any individual or

ASSEMBLY BILL 1038

SECTION 98

1 any damages caused by actions or omissions taken in providing services to address  
 2 or in response to a 2019 novel coronavirus outbreak under circumstances that satisfy  
 3 all of the following:

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4 (a) The action or omission is committed while the professional, provider,  
 5 employee, agent, or contractor is providing services during the state of emergency  
 6 declared under s. 323.10 on March 12, 2020, by executive order 72, relating to the  
 7 2019 novel coronavirus pandemic and for the 60 days following the date that the state  
 8 of emergency terminates.

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9 (b) The actions or omissions occur during the person's good faith response to  
 10 the emergency described under par. (a) or are substantially consistent with any of  
 11 the following:

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1. Any direction, guidance, recommendation, or other statement made by a  
 13 federal, state, or local official to address or in response to the emergency or disaster  
 14 declared as described under par. (a).

15 2. Any guidance published by the department of health services, the federal  
 16 department of health and human services, or any divisions or agencies of the federal  
 17 department of health and human services relied upon in good faith.

18 (c) The actions or omissions do not involve reckless or wanton conduct or  
 19 intentional misconduct.

20 (3) APPLICABILITY. This section does not apply if s. 257.03, 257.04, 323.41, or  
 21 323.44 applies.

22 SECTION 99. 895.51 (title) of the statutes is amended to read:

23 895.51 (title) **Civil liability exemption: food or emergency household**  
 24 **products; emergency medical supplies; donation, sale, or distribution.**

25 SECTION 100. 895.51 (1) (bd) of the statutes is created to read:

**ASSEMBLY BILL 1038****SECTION 100**

1           895.51 (1) (bd) “Cost of production” means the cost of inputs, wages, operating  
2 the manufacturing facility, and transporting the product.

3           **SECTION 101.** 895.51 (1) (bg) of the statutes is created to read:

4           895.51 (1) (bg) “Emergency medical supplies” means any medical equipment  
5 or supplies necessary to limit the spread of, or provide treatment for, a disease  
6 associated with the public health emergency related to the 2019 novel coronavirus  
7 pandemic, including life support devices, personal protective equipment, cleaning  
8 supplies, and any other items determined to be necessary by the secretary of health  
9 services.

10          **SECTION 102.** 895.51 (1) (dp) of the statutes is created to read:

11          895.51 (1) (dp) “Public health emergency related to the 2019 novel coronavirus  
12 pandemic” means the period covered by the public health emergency declared under  
13 42 USC 247d by the secretary of the federal department of health and human  
14 services on January 31, 2020, in response to the 2019 novel coronavirus or the  
15 national emergency declared by the U.S. president under 50 USC 1621 on March 13,  
16 2020, in response to the 2019 novel coronavirus.

17          **SECTION 103.** 895.51 (2r) of the statutes is created to read:

18          895.51 (2r) Any person engaged in the manufacturing, distribution, or sale of  
19 emergency medical supplies, who donates or sells, at a price not to exceed the cost  
20 of production, emergency medical supplies to a charitable organization or  
21 governmental unit to respond to the public health emergency related to the 2019  
22 novel coronavirus pandemic is immune from civil liability for the death of or injury  
23 to an individual caused by the emergency medical supplies donated or sold by the  
24 person.

25          **SECTION 104.** 895.51 (3r) of the statutes is created to read:

**ASSEMBLY BILL 1038****SECTION 104**

1           895.51 **(3r)** Any charitable organization that distributes free of charge  
2 emergency medical supplies received under sub. (2r) is immune from civil liability  
3 for the death of or injury to an individual caused by the emergency medical supplies  
4 distributed by the charitable organization.

5           **SECTION 105. Nonstatutory provisions.**

6           (1) ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGE. If the federal  
7 government provides an enhanced federal medical assistance percentage during an  
8 emergency period declared in response to the novel coronavirus pandemic, the  
9 department of health services may do any of the following during the period to which  
10 the enhanced federal medical assistance percentage applies in order to satisfy  
11 criteria to qualify for the enhanced federal medical assistance percentage:

12           (a) Suspend the requirement to comply with the premium requirements under  
13 s. 49.45 (23b) (b) 2. and (c).

14           (b) Suspend the requirement to comply with the health risk assessment  
15 requirement under s. 49.45 (23b) (b) 3.

16           (c) Delay implementation of the community engagement requirement under s.  
17 49.45 (23b) (b) 1. until the date that is 30 days after either the day the federal  
18 government has approved the community engagement implementation plan or the  
19 last day of the calendar quarter in which the last day of the emergency period under  
20 42 USC 1320b-5 (g) (1) that is declared due to the novel coronavirus pandemic  
21 occurs, whichever is later.

22           (d) Notwithstanding any requirement under subch. IV of ch. 49 to disenroll an  
23 individual to the contrary, maintain continuous enrollment in compliance with  
24 section 6008 (b) (3) of the federal Families First Coronavirus Response Act, P.L.  
25 116-127.

**ASSEMBLY BILL 1038****SECTION 105**

1           (2) LIABILITY INSURANCE FOR PHYSICIANS AND NURSE ANESTHETISTS. During the  
2 public health emergency declared on March 12, 2020, by executive order 72, all of the  
3 following apply to a physician or nurse anesthetist for whom this state is not a  
4 principal place of practice but who is authorized to practice in this state on a  
5 temporary basis:

6           (a) The physician or nurse anesthetist may fulfill the requirements of s. 655.23

7           (3) (a) by filing with the commissioner of insurance a certificate of insurance for a  
8 policy of health care liability insurance issued by an insurer that is authorized in a  
9 jurisdiction accredited by the National Association of Insurance Commissioners.

10           (b) The physician or nurse anesthetist may elect, in the manner designated by  
11 the commissioner of insurance by rule under s. 655.004, to be subject to ch. 655.

12           (3) VIRTUAL INSTRUCTION; REPORTS AND GUIDANCE.

13           (a) *Definitions.* In this subsection:

14           1. "Department" means the department of public instruction.

15           2. "Public health emergency" means the period during the 2019-20 school year  
16 when schools are closed by the department of health services under s. 252.02 (3).

17           3. "Virtual instruction" means instruction provided through means of the  
18 Internet if the pupils participating in and instructional staff providing the  
19 instruction are geographically remote from each other.

20           (b) *School board reports.* By November 1, 2020, each school board shall report  
21 to the department all of the following:

22           1. Whether or not virtual instruction was implemented in the school district  
23 during the public health emergency and, if implemented, in which grades it was  
24 implemented.



**ASSEMBLY BILL 1038****SECTION 105**

1           2. If virtual instruction was implemented in the school district during the  
2 public health emergency, the process for implementing the virtual instruction.

3           3. For each grade level, the average percentage of the 2019-20 school year  
4 curriculum provided to pupils, including curriculum provided in-person and  
5 virtually.

6           4. Whether anything was provided to pupils during the 2020 summer to help  
7 pupils learn content that pupils missed because of the public health emergency and,  
8 if so, what was provided to pupils.

9           5. Recommendations for best practices for transitioning to and providing  
10 virtual instruction when schools are closed.

11           6. Any challenges or barriers the school board faced related to implementing  
12 virtual instruction during the public health emergency.

13           7. By position type, the number of staff members who were laid off during the  
14 public health emergency.

15           8. The number of lunches the school board provided during the public health  
16 emergency.

17           9. The total amount by which the school board reduced expenditures during,  
18 or because of, the public health emergency in each of the following categories:

19           a. Utilities.

20           b. Transportation.

21           c. Food service.

22           d. Personnel. This category includes expenditure reductions that result from  
23 layoffs.

24           e. Contract terminations.

1 (c) *Report to the legislature.* By January 1, 2021, the department shall compile  
2 and submit the information it received under par. (b) to the appropriate standing  
3 committees of the legislature in the manner provided under s. 13.172 (3).

4 (d) *DPI guidance on returning to in-person instruction.* By June 30, 2020, the  
5 department shall post on its Internet site guidance to schools on best practices  
6 related to transitioning from virtual instruction to in-person instruction.

7 (4) TEMPORARY CREDENTIALS FOR FORMER HEALTH CARE PROVIDERS DURING  
8 EMERGENCY.

9 (a) *Definitions.* In this subsection:

- 10 1. "Credential" means a license or certificate.
- 11 2. "Department" means the department of safety and professional services.
- 12 3. "Health care provider" means an individual who was at any time within the  
13 previous 5 years, but is not currently, any of the following, if the individual's  
14 credential was never revoked, limited, suspended, or denied renewal:
- 15 a. Licensed as a registered nurse, licensed practical nurse, or nurse-midwife  
16 under ch. 441.
- 17 b. Licensed as a dentist under ch. 447.
- 18 c. Licensed as a physician, physician assistant, or perfusionist under ch. 448  
19 or certified as a respiratory care practitioner under ch. 448.
- 20 d. Licensed as a pharmacist under ch. 450.
- 21 e. Licensed as a psychologist under ch. 455.
- 22 f. A clinical social worker, marriage and family therapist, or professional  
23 counselor licensed under ch. 457 or an independent social worker or social worker  
24 certified under ch. 457.
- 25 g. A clinical substance abuse counselor certified under s. 440.88.

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1 h. Any practitioner holding a credential to practice a profession that is  
2 identified by the department of health services during the period covered by the  
3 public health emergency declared on March 12, 2020, by executive order 72.

4 (b) *Temporary emergency credentials.*

5 1. The department may grant a temporary credential to a health care provider  
6 if all of the following apply:

7 a. The health care provider submits an application to the department.

8 b. The department determines that the health care provider satisfies the  
9 eligibility requirements for the credential and is fit to practice after conducting an  
10 investigation of the health care provider's arrest or conviction record and record of  
11 professional discipline.

12 2. If the department denies a health care provider's application for a temporary  
13 credential under this paragraph, the department shall notify the health care  
14 provider of the reason for denial.

15 3. Notwithstanding ss. 441.06 (4), 441.15 (2), 447.03 (1) and (2), 448.03 (1) (a),  
16 (b), and (c) and (1m), and 450.03 (1), a health care provider granted a temporary  
17 credential under this paragraph may provide services for which the health care  
18 provider has been licensed or certified.

19 4. A health care provider who provides services authorized by a temporary  
20 credential granted under this paragraph shall maintain malpractice insurance that  
21 satisfies the requirements of the profession for which the health care provider has  
22 been licensed or certified.

23 5. A temporary credential granted under this paragraph expires 90 days after  
24 the conclusion of the period covered by the public health emergency declared on  
25 March 12, 2020, by executive order 72.

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## ASSEMBLY BILL 1038

1 (5) **AUTHORITY TO WAIVE FEES.** Notwithstanding s. 440.05 and the applicable fee  
2 provisions in chs. 440 to 480, during the period covered by the public health  
3 emergency declared on March 12, 2020, by executive order 72, the department of  
4 safety and professional services may waive fees for applications for an initial  
5 credential and renewal of a credential for registered nurses, licensed practical  
6 nurses, nurse-midwives, dentists, physicians, physician assistants, perfusionists,  
7 respiratory care practitioners, pharmacists, psychologists, clinical social workers,  
8 independent social workers, social workers, marriage and family therapists,  
9 professional counselors, and clinical substance abuse counselors.

10 (6) **TEMPORARY CREDENTIALS FOR HEALTH CARE PROVIDERS FROM OTHER STATES**  
11 **DURING EMERGENCY.**

12 (a) *Definitions.* In this subsection:

- 13 1. "Credential" means a license or certificate.
- 14 2. "Department" means the department of safety and professional services.
- 15 3. "Health care provider" means an individual who holds a valid, unexpired  
16 license, certificate, or registration granted by another state or territory that  
17 authorizes or qualifies the individual to perform acts that are substantially the same  
18 as the acts that any of the following are licensed or certified to perform:
- 19 a. A registered nurse, licensed practical nurse, or nurse-midwife licensed  
20 under ch. 441.
- 21 b. A dentist licensed under ch. 447.
- 22 c. A physician, physician assistant, or perfusionist licensed under ch. 448 or a  
23 respiratory care practitioner certified under ch. 448.
- 24 d. A pharmacist licensed under ch. 450.
- 25 e. A psychologist licensed under ch. 455.
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1 f. A clinical social worker, marriage and family therapist, or professional  
2 counselor licensed under ch. 457 or an independent social worker or social worker  
3 certified under ch. 457.

4 g. A clinical substance abuse counselor certified under s. 440.88.

5 h. Any practitioner holding a credential to practice a profession that is  
6 identified by the department of health services during the period covered by the  
7 public health emergency declared on March 12, 2020, by executive order 72.

8 (b) *Temporary emergency credentials.*

9 1. The department may grant a temporary credential to a health care provider  
10 if all of the following apply:

11 a. The health care provider submits an application to the department.

12 b. The department determines that the health care provider satisfies the  
13 eligibility requirements for the credential and is fit to practice after conducting an  
14 investigation of the health care provider's arrest or conviction record and record of  
15 professional discipline.

16 2. The department may determine the appropriate scope of the review under  
17 subd. 1. b. of the background of a health care provider who applies for a temporary  
18 credential under this paragraph.

19 3. If the department denies a health care provider's application for a temporary  
20 credential under this paragraph, the department shall notify the health care  
21 provider of the reason for the denial.

22 4. Notwithstanding ss. 441.06 (4), 441.15 (2), 447.03 (1) and (2), 448.03 (1) (a),  
23 (b), and (c) and (1m), and 450.03 (1), a health care provider granted a temporary  
24 credential under this paragraph may provide services for which the health care  
25 provider is licensed or certified.

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1 5. A health care provider who provides services authorized by a temporary  
2 credential granted under this paragraph shall maintain malpractice insurance that  
3 satisfies the requirements of the profession for which the health care provider is  
4 licensed or certified.

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5 6. A temporary credential granted under this paragraph expires 90 days after  
6 the conclusion of the period covered by the public health emergency declared on  
7 March 12, 2020, by executive order 72.

8 (7) AUTHORITY TO WAIVE FEES. Notwithstanding s. 440.05 and the applicable fee  
9 provisions in chs. 440 to 480, during the period covered by the public health  
10 emergency declared on March 12, 2020, by executive order 72, the department may  
11 waive fees for applications for an initial credential and renewal of a credential for  
12 registered nurses, licensed practical nurses, nurse-midwives, dentists, physicians,  
13 physician assistants, perfusionists, respiratory care practitioners, pharmacists,  
14 psychologists, clinical social workers, independent social workers, social workers,  
15 marriage and family therapists, professional counselors, and clinical substance  
16 abuse counselors.

17 (8) POSITION TRANSFERS.

18 (a) In this subsection:

19 1. "Emergency period" means the period covered by the public health  
20 emergency declared on March 12, 2020, by executive order 72.

21 2. "State agency" means any office, commission, board, department, or  
22 independent agency in the executive branch of state government.

23 (b) During the emergency period, the secretary of administration may transfer  
24 any employee from one state agency to another state agency to provide services for  
25 the receiving state agency. The receiving state agency shall pay all salary and fringe

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**ASSEMBLY BILL 1038****SECTION 105**

1 benefit costs of the employee during the time he or she is providing services for the  
2 receiving state agency. Any action by the secretary under this paragraph shall  
3 remain in effect until rescinded by the secretary or 90 days after the public health  
4 emergency is terminated, whichever is earliest.

5 (c) If an employee is transferred under par. (b), the receiving agency may not  
6 increase the employee's salary at the time of transfer or during the time he or she is  
7 providing services for the receiving agency and the transferring agency may not  
8 increase the employee's salary at the time the employee returns to the transferring  
9 agency.

10 (d) The secretary of administration shall submit a report to the joint committee  
11 on finance no later than June 1, 2020, and on the first day of each subsequent month  
12 during the emergency period, that provides information on all employee transfers  
13 under par. (b). The report shall specify the number of employees transferred, the title  
14 of each employee transferred, the title the employee assumed at the receiving agency,  
15 and the reasons for each employee transfer.

16 (9) LOANS TO MUNICIPAL UTILITIES.

17 (a) *Definitions.* In this subsection:

18 1. "Board" means the board of commissioners of public lands.

19 2. "COVID-19 public health emergency" means the public health emergency  
20 declared on March 12, 2020, by executive order 72.

21 3. "Emergency period" means the period covered by the COVID-19 public  
22 health emergency, plus 60 days.

23 4. "Municipal utility" has the meaning given in s. 196.377 (2) (a) 3.

24 (b) *Loans.*

**ASSEMBLY BILL 1038****SECTION 105**

1           1. The board may loan moneys under its control or belonging to the trust funds  
2 to a municipal utility to ensure that the municipal utility is able to maintain liquidity  
3 during the emergency period. The loan shall be for the sum of money, for the time,  
4 and upon the conditions as may be agreed upon between the board and the borrower.

5           2. The legislature finds and determines that the loans authorized under this  
6 subsection serve a public purpose.

7           (10) LEGISLATIVE OVERSIGHT OF THE MEDICAL ASSISTANCE PROGRAM.

8           (a) Section 20.940 does not apply to a request for a waiver, amendment to a  
9 waiver, or other federal approval from the department of health services submitted  
10 to the federal department of health and human services during the public health  
11 emergency declared under 42 USC 247d by the secretary of the federal department  
12 of health and human services on January 31, 2020, in response to the 2019 novel  
13 coronavirus, only if the request is any of the following, relating to the Medical  
14 Assistance program:

15           1. Allowing providers to receive payments for services provided in alternative  
16 settings to recipients affected by 2019 novel coronavirus.

17           2. Waiving preadmission screening and annual resident review requirements  
18 when recipients are transferred.

19           3. Allowing hospitals who hold a state license but have not yet received  
20 accreditation from the Joint Commission to bill the Medical Assistance program  
21 during the 2019 novel coronavirus public health emergency.

22           4. Waiving payment of the application fee to temporarily enroll a provider for  
23 90 days or until the termination of the 2019 novel coronavirus public health  
24 emergency, whichever is longer.



**ASSEMBLY BILL 1038****SECTION 105**

1           5. Waiving pre-enrollment criminal background checks for providers that are  
2 enrolled in the Medicare program to temporarily enroll the provider in the Medical  
3 Assistance program for 90 days or until the termination of the 2019 novel  
4 coronavirus public health emergency, whichever is longer.

5           6. Waiving site visit requirements to temporarily enroll a provider for 90 days  
6 or until the termination of 2019 novel coronavirus public health emergency,  
7 whichever is longer.

8           7. Ceasing revalidation of providers who are enrolled in the Medical Assistance  
9 program or otherwise directly impacted by the 2019 novel coronavirus public health  
10 emergency for 90 days or until termination of the public health emergency,  
11 whichever is longer.

12           8. Waiving the requirement that physicians and other health care professionals  
13 be licensed in the state in which they are providing services if they have equivalent  
14 licensing in another state or are enrolled in the federal Medicare program.

15           9. Waiving prior authorization requirements for access to covered state plan or  
16 waiver benefits.

17           10. Expanding the authority under Section 1905 (a) of the federal Social  
18 Security Act regarding nonemergency transportation to allow for reimbursement of  
19 any eligible individual under the Medical Assistance program, additional vendors,  
20 transportation for caregivers going to provide services to recipients, and meal  
21 delivery to Medical Assistance recipients.

22           11. Waiving public notice requirements that would otherwise be applicable to  
23 state plan and waiver changes.

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1           12. Modifying the tribal consultation timelines specified in the Medical  
2 Assistance state plan to allow for consultation at the next future tribal health  
3 director meeting.

4           13. Modifying the requirement under 42 CFR 430.20 to submit the state plan  
5 amendment by March 31, 2020, to obtain an effective date during the first calendar  
6 quarter of 2020. The department of health services shall comply with s. 49.45 (2t)  
7 for any item included in the state plan amendment that is not specifically described  
8 in this subsection.

9           14. Simplifying program administration by allowing for temporary state plan  
10 flexibilities rather than requiring states to go through the state plan amendment  
11 submission and approval process.

12           15. Waiving timely filing requirements for billing under 42 USC 1395cc and  
13 1396a (a) (54) and 42 CFR 424.44 to allow time for providers to implement changes.

14           16. Expanding hospital presumptive eligibility to include the population over  
15 age 65 and disabled.

16           17. Allowing flexibility for submission of electronic signatures on behalf of a  
17 Medical Assistance recipient by application assistors if a signature cannot be  
18 captured in person.

19           18. Waiving requirements for managed care organizations to complete initial  
20 and periodic recredentialing of network providers if the providers meet Medical  
21 Assistance provider enrollment requirements during the 2019 novel coronavirus  
22 public health emergency.

23           19. Requiring managed care organizations to extend preexisting  
24 authorizations through which a Medical Assistance recipient has received prior

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1 authorization until the termination of the 2019 novel coronavirus public health  
2 emergency.

3 20. Waiving sanctions under Section 1877 (g) of the Social Security Act relating  
4 to limitations on physician referral.

5 21. Allowing flexibility in how a teaching physician is present with the patient  
6 and resident including real-time audio and video or access through a window.

7 22. Waiving certain equipment requirements in hospital equipment  
8 maintenance requirement guidance issued on December 20, 2013, to maintain the  
9 health and safety of the hospitals' patients and providers.

10 23. Creating provisions allowing for additional flexibilities to allow for the use  
11 in nursing homes of physician extenders in place of medical directors and attending  
12 physicians and telehealth options.

13 24. Waiving notice of transfers within a nursing home due to medically  
14 necessary protection from the 2019 novel coronavirus.

15 25. Waiving requirements to document sufficient preparation and orientation  
16 to residents to ensure a safer and orderly intrafacility nursing home transfer.

17 26. Waiving requirements for a nursing home bedhold policy.

18 27. Waiving the requirements for nursing home in-service education under 42  
19 CFR 483.35 (d) (7).

20 28. Waiving nurse staffing information and posting of that information for  
21 nursing homes.

22 29. Suspending the requirement that a pharmacist go monthly to the nursing  
23 home to do record review.

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1           30. Waiving or lessening requirements for a paid feeding assistant program in  
2 nursing homes and setting guidelines for training to assist with the 2019 novel  
3 coronavirus pandemic.

4           31. Waiving the annual and quarterly screening of fire extinguishers and any  
5 other annual maintenance review for nursing homes.

6           32. Allowing all clinical hours required under 42 CFR 483.152 (a) (3) to be  
7 online simulation.

8           33. Waiving under 42 CFR 483.151 (b) (2) the loss of the Nurse Aide Training  
9 and Competency Evaluation Program.

10          34. Waiving the requirements under 42 CFR 483.160 for training of paid  
11 feeding assistants.

12          35. Allowing home health agencies to perform certifications, initial  
13 assessments, and determine homebound status remotely or by record review.

14          36. Waiving life safety codes for intermediate care facilities for individuals with  
15 intellectual disabilities under 42 CFR 483.70 and for hospitals, hospices, nursing  
16 homes, critical access hospitals and intermediate care facilities for individuals with  
17 intellectual disabilities relating to fire alarm system maintenance and testing,  
18 automatic sprinkler and standpipe system inspection, testing, and maintenance,  
19 and inspection and maintenance of portable fire extinguishers.

20          37. Relating to the home and community-based waiver programs of Family  
21 Care, IRIS, and Children's Long-Term Supports, any of the following:

22           a. Allowing all waiver services and administrative requirements that that can  
23 be provided with the same functional equivalency of face-to-face services to occur  
24 remotely.

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1           b. Removing the requirement to complete a 6-month progress report to  
2 reauthorize prevocational service.

3           c. Removing the limitation that quotes from at least 3 providers must be  
4 obtained and submitted for home modifications.

5           d. Removing the limitation preventing supportive home care from being  
6 provided in adult family homes and residential care apartment complexes.

7           e. Removing the limitation preventing personal or nursing services for  
8 recipients in residential care apartment complexes.

9           f. Removing the limitation that participants cannot receive other waiver  
10 services on the same day as receiving respite care.

11          g. Allowing adult day service providers, prevocational providers, and  
12 supported employment providers to provide services in alternate settings.

13          h. Allowing up to 3 meals per day for home delivered meals for Family Care and  
14 IRIS program enrollees and adding home delivered meals as a benefit in the  
15 Children's Long-Term Supports waiver.

16          i. Removing the limitation on using moneys to relocate individuals from an  
17 institution or family home to an independent living arrangement.

18          j. Allowing any individual with an intellectual or developmental disability to  
19 reside in a community-based residential facility with greater than 8 beds.

20          k. Modifying the scope of the child care benefit to allow for the provision of child  
21 care payments for children under the age of 12 in the program for direct care workers  
22 and medical workers who need access to child care during the emergency.

23          l. Allowing for all home and community-based waiver services to be provided  
24 in temporary settings.

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1 m. Allowing home and community-based waiver services to be provided  
2 temporarily in an acute care hospital or in a short-term institutional stay.

3 n. Allowing payment for home and community-based waiver services provided  
4 in settings outside this state.

5 o. Allowing general retailers to provide assistive technology or communication  
6 aids.

7 p. Allowing providers certified or licensed in other states or enrolled in the  
8 Medicare program to perform the same or comparable services in this state.

9 q. Delaying provider licensing or certification reviews.

10 r. Allowing the department of health services to waive provider qualifications  
11 as necessary to increase the pool of available providers.

12 s. Allowing 4-year background checks to be delayed.

13 t. Expanding transportation providers to include individual and  
14 transportation network companies.

15 u. Allowing noncertified individuals to provide home delivered meals.

16 v. Allowing nursing students to provide allowable nursing services.

17 w. Allowing parents to be paid caregivers for their minor children in the  
18 Children's Long-Term Supports program when providing a service that would  
19 otherwise have been performed and paid for by a provider.

20 x. Allowing for qualified individuals to provide training to unpaid caregivers.

21 y. Waiving choice of provider requirements.

22 z. Waiving the managed care network adequacy requirements under 42 CFR  
23 438.68 and 438.207.

24 za. Waiving requirements to complete initial and required periodic  
25 credentialing of network providers.

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1           zb. Adding a verbal and electronic method to signing required documents.

2           zc. Allowing the option to conduct evaluations, assessments, and  
3 person-centered service planning meetings virtually or remotely in lieu of  
4 face-to-face meetings.

5           zd. Allowing the lessening of prior approval or authorization requirements.

6           ze. Allowing for data entry of incidents into the incident reporting system  
7 outside of typical timeframes.

8           zf. Waiving the requirement to distribute member-centered plans to essential  
9 providers.

10          zg. Allowing the department of health services to draw federal financing match  
11 for payments, such as hardship or supplemental payments, to stabilize and retain  
12 providers who suffer extreme disruptions to their standard business model or  
13 revenue streams as a result of the 2019 novel coronavirus.

14          zh. Allowing the department of health services to waive participant liability for  
15 room and board when temporarily sheltered at noncertified facilities.

16          zi. Allowing payment for home and community-based waiver services that are  
17 not documented in the recipient's plan.

18          zj. Allowing managed care enrollees to proceed almost immediately to a state  
19 fair hearing without having a managed care plan resolve the appeal first by  
20 permitting the department of health services to modify the timeline for managed  
21 care plans to resolve appeals to one day so the impacted appeals satisfy the  
22 exhaustion requirements and give enrollees more time to request a fair hearing.

23          zk. Waiving public notice requirements that would otherwise be applicable to  
24 waiver changes.

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1           zl. Modifying the tribal consultation timelines to allow for consultation at the  
2 next future tribal health directors meeting.

3           zm. Waiving timelines for reports, required surveys, and notifications.

4           zn. Allowing the extension of the certification period of level-of-care screeners.

5           zo. Allowing the waiver of requirements related to home and community-based  
6 settings on a case by case basis in order to ensure the health, safety and welfare of  
7 affected beneficiaries under 42 CFR 441.301 (c) (4).

8           zp. Applying any provisions under this paragraph automatically to the  
9 concurrent 1915 (b) waiver.

10          zq. Allowing the waiver enrollment or eligibility changes based on a completed  
11 functional screen resulting in a change in level-of-care.

12          zr. Allowing for continued enrollment in the Children's Long-Term Supports  
13 program past the ages of 18 and 21.

14          zs. Allowing the suspension of involuntary disenrollment.

15          (b) The department of health services may implement any of the items specified  
16 in par. (a) only on a temporary basis to address the 2019 novel coronavirus pandemic  
17 for which the public health emergency described in par. (a) is declared, and any  
18 extension or renewal of the items in par. (a) shall comply with s. 20.940 and, if  
19 applicable, s. 49.45 (2t).

20          (11) AUDIT OF PROGRAMS AND EXPENDITURES. Beginning July 1, 2020, and ending  
21 June 30, 2021, the legislative audit bureau shall use risk-based criteria to review  
22 selected programs affected by this act and selected expenditures made with funds  
23 authorized by this act and report the results of its reviews at least quarterly to the  
24 chief clerk of each house of the legislature and to the joint legislative audit  
25 committee.



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1 (13) COMMUNICATIONS LIMITATIONS UNDER CAMPAIGN FINANCE LAW. Section 11.1205

2 (1) does not apply to communications made during, or within 30 days after  
3 termination of, the public health emergency declared on March 12, 2020, by  
4 executive order 72, if the communications relate to the public health emergency.

5 (14) AUTHORITY TO WAIVE INTEREST AND PENALTIES FOR GENERAL FUND AND  
6 TRANSPORTATION FUND TAXES. For any person who fails to remit a covered tax or fee  
7 by the date required by law, the secretary of revenue may waive, on a case-by-case  
8 basis, any penalty or interest that accrues during the applicable period if the date  
9 required by law for the remittance is during the applicable period and the secretary  
10 determines that the person's failure is due to the effects of the COVID-19 pandemic.  
11 For purposes of this subsection, "applicable period" means the period covered by the  
12 public health emergency declared on March 12, 2020, by executive order 72, and  
13 "covered tax or fee" means a tax that is deposited or expected to be deposited into the  
14 general fund or a tax or fee that is deposited or expected to be deposited into the  
15 transportation fund.

16 (15) AUTOPSIES AND CREMATION OF BODIES OF PERSONS WHO DIED OF COVID-19.

17 (a) *Definition.* In this subsection, "COVID-19" means an infection caused by  
18 the SARS-CoV-2 coronavirus.

19 (b) *Viewing of a corpse to be cremated following death from COVID-19.*

20 Notwithstanding s. 979.10 (1) (b), for the duration of the public health emergency  
21 declared on March 12, 2020, by executive order 72, if any physician, coroner, or  
22 medical examiner has signed the death certificate of a deceased person and listed  
23 COVID-19 as the underlying cause of death, a coroner or medical examiner shall  
24 issue a cremation permit to cremate the corpse of that deceased person without  
25 viewing the corpse.

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1           (c) *Time for cremation of a person who has died of COVID-19.* Notwithstanding  
2 s. 979.10 (1) (a) (intro.), for the duration of the public health emergency declared on  
3 March 12, 2020, by executive order 72, if a physician, coroner, or medical examiner  
4 has signed the death certificate of a deceased person and listed COVID-19 as the  
5 underlying cause of death, a coroner or medical examiner shall issue, within 48 hours  
6 after the time of death, a cremation permit for the cremation of a corpse of a deceased  
7 person.

8           (d) *Examination of the body of an inmate who has died of COVID-19.*  
9 Notwithstanding s. 979.025, for the duration of the public health emergency declared  
10 on March 12, 2020, by executive order 72, if an individual who has been diagnosed  
11 with COVID-19 dies while he or she is in the legal custody of the department of  
12 corrections and confined to a correctional facility located in this state, the coroner or  
13 medical examiner may perform a limited examination of the deceased individual  
14 instead of a full autopsy, which may include an external examination of the body of  
15 the deceased individual, a review of the deceased individual's medical records, or a  
16 review of the deceased individual's radiographs.

17           (e) *Requiring electronic signature on death certificates with 48 hours if death*  
18 *is caused by COVID-19.* Notwithstanding s. 69.18 or any other requirements to the  
19 contrary, during the public health emergency declared on March 12, 2020, by  
20 executive order 72, if the underlying cause of a death is determined to be COVID-19,  
21 the person required to sign the death certificate shall provide an electronic signature  
22 on the death certificate within 48 hours after the death occurs.

23           (16) CREDENTIAL RENEWAL DURING COVID-19 EMERGENCY.

24           (a) *Definition.* In this subsection, "emergency period" means the period covered  
25 by the state of emergency related to public health declared by the governor on March

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1 12, 2020, by executive order 72, and for the 60 days following the date that the state  
2 of emergency is terminated.

3 (b) *Emergency medical services renewals.* Notwithstanding s. 256.15 (6) (b) and  
4 (c), (8) (c) and (cm), and (10), during the emergency period, the department of health  
5 services may not require an ambulance service provider, emergency medical services  
6 practitioner, or emergency medical responder that holds a license, training permit,  
7 or certificate under s. 256.15 that has not been suspended or revoked to renew that  
8 license, training permit, or certificate or impose renewal requirements, such as  
9 continuing education, on an ambulance service provider, emergency medical services  
10 practitioner, or emergency medical responder that holds a license, training permit,  
11 or certificate under s. 256.15. A renewal that occurs after the emergency period is  
12 not considered a late renewal if the application to renew the credential is received  
13 before the next applicable renewal date. The department of health services may, for  
14 that next applicable renewal date, provide an exemption from or reduction of  
15 continuing education or other conditions for renewal.

16 (17) **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT FUNDS.** The federal Child  
17 Care and Development Fund block grant funds received under the federal  
18 Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, shall be credited  
19 to the appropriations under s. 20.437 (1) (mc) and (md). No moneys credited under  
20 this subsection may be encumbered or expended except as provided under s. 16.54  
21 (2) (a) 2.

22 (18) **ELIGIBILITY FOR LOCAL FAIR AIDS.** Notwithstanding s. 93.23 (1) (c), each  
23 agricultural society, board, or association that received aid under s. 93.23 in 1950  
24 shall continue to remain eligible for aid if a fair operated by the society, board, or

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1 association is not held during 2020 because of the public health emergency declared  
2 on March 12, 2020, by executive order 72.

3 (19) APPLICATIONS FOR HEATING ASSISTANCE. Households may apply for heating  
4 assistance under s. 16.27 (4) (a) at any time during calendar year 2020.

5 (20) PAY-FOR-PERFORMANCE; HEALTH INFORMATION EXCHANGE. The department of  
6 health services shall develop for the Medical Assistance program a payment system  
7 based on performance to incentivize participation in health information data sharing  
8 to facilitate better patient care, reduced costs, and easier access to patient  
9 information. The department shall establish performance metrics for the payment  
10 system under this subsection that satisfy all of the following:

11 (a) The metric shall include participation by providers in a health information  
12 exchange at a minimum level of patient record access.

13 (b) The payment under the payment system shall increase as the participation  
14 level in the health information exchange increases.

15 (c) The payment system shall begin in the 2021 rate year.

16 (d) For purposes of this payment system, the department shall seek any  
17 available federal moneys, including any moneys available for this purpose under the  
18 the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, to  
19 assist small, rural providers with the costs of information technology setup to  
20 participate in the health information exchange.

21 (21) PUPIL ASSESSMENTS; PUBLIC HEALTH EMERGENCY EXCEPTION FOR THE 2019-20  
22 SCHOOL YEAR. Sections 115.7915 (5) (b) and (6) (j), 118.30 (1m), (1r), (1s), and (1t),  
23 118.40 (2r) (d) 2. and (2x) (d) 2., 118.60 (7) (b) 1., 119.23 (7) (b) 1., and 121.02 (1) (r)  
24 and (s) do not apply in the 2019-20 school year.

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1           (22) DIRECT HOURS OF INSTRUCTION; WAIVER FOR PRIVATE SCHOOLS. In the 2019-20  
2 school year, the governing body of a private school may request the department to  
3 waive any requirement related to providing hours of instruction in chs. 115 to 121,  
4 including the requirements in ss. 118.165 (1) (c), 118.60 (2) (a) 8., and 119.23 (2) (a)  
5 8., or in administrative rules promulgated by the department under the authority of  
6 those chapters.

7           (23) STATEWIDE PARENTAL CHOICE PROGRAM; APPLICATIONS FOR THE 2020-21 SCHOOL  
8 YEAR.

9           (a) Notwithstanding s. 118.60 (3) (ar) 1., a private school that submitted a  
10 notice of intent to participate under s. 118.60 (2) (a) 3. a. by January 10, 2020, may  
11 accept applications for the 2020-21 school year until May 14, 2020, from pupils who  
12 reside in a school district, other than an eligible school district, as defined in s. 118.60  
13 (1) (am), or a 1st class city school district.

14           (b) Notwithstanding s. 118.60 (3) (ar) 2., each private school that receives  
15 applications under s. 118.60 (3) (ar) 1. for the 2020-21 school year by the deadline  
16 under par. (a), shall report the information required under s. 118.60 (3) (ar) 2. to the  
17 department of public instruction by May 29, 2020.

18           (24) FULL-TIME OPEN ENROLLMENT; APPLICATIONS FOR THE 2020-21 SCHOOL YEAR.  
19 Notwithstanding s. 118.51 (3) (a) and (b), (8), and (14) (b), all of the following apply  
20 to applications to attend a public school in a nonresident school district under s.  
21 118.51 in the 2020-21 school year:

22           (a) The deadline for a parent of a pupil to submit an application to a nonresident  
23 school district under s. 118.51 (3) (a) 1. is May 29, 2020.

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1 (b) The deadline for a nonresident school board to send a copy of an application  
2 to a pupil's resident school board and the department under s. 118.51 (3) (a) 1. is by  
3 the end of the day on June 1, 2020.

4 (c) The deadline for a resident school board to send a copy of a pupil's  
5 individualized education program to a nonresident school district under s. 118.51 (3)  
6 (a) 1m. is June 8, 2020.

7 (d) A nonresident school board may not act on any application received under  
8 s. 118.51 (3) (a) 1. before June 1, 2020.

9 (e) The deadline under s. 118.51 (3) (a) 3. by which a nonresident school board  
10 must notify an applicant of whether the applicant's application has been accepted is  
11 July 2, 2020.

12 (f) The deadline under s. 118.51 (3) (a) 4. by which a resident school board must  
13 notify an applicant and the nonresident school board that an application has been  
14 denied is July 9, 2020.

15 (g) The deadline under s. 118.51 (3) (a) 6. for a pupil's parent to notify a  
16 nonresident school board of the pupil's intent to attend school in the nonresident  
17 school district in the 2020-21 school year is July 31, 2020, or within 10 days of  
18 receiving a notice of acceptance if a pupil is selected from a waiting list under s.  
19 118.51 (5) (d).

20 (h) By August 7, 2020, each nonresident school board that has accepted a pupil  
21 under s. 118.51 for attendance in the 2020-21 school year shall report the name of  
22 the pupil to the pupil's resident school board.

23 (i) The deadline for a resident school board to provide the information under  
24 s. 118.51 (8) to a nonresident school board to which a pupil has applied to attend in  
25 the 2020-21 school year is June 5, 2020.

1 (j) The deadline under s. 118.51 (14) (b) for the department to provide parents  
2 requesting reimbursement under s. 118.51 (14) (b) an estimate of the amount of  
3 reimbursement that the parent will receive if the pupil attends public school in the  
4 nonresident school district in the 2020-21 school year is June 12, 2020.

5 (25) INTEREST ON LATE PROPERTY TAX PAYMENTS. Notwithstanding ss. 74.11, 74.12,  
6 and 74.87, for property taxes payable in 2020, after making a general or  
7 case-by-case finding of hardship, a taxation district may provide that an  
8 installment payment that is due and payable after April 1, 2020, and is received after  
9 its due date shall not accrue interest or penalties if the total amount due and payable  
10 in 2020 is paid on or before October 1, 2020. Interest and penalties shall accrue from  
11 October 1, 2020, for any property taxes payable in 2020 that are delinquent after  
12 October 1, 2020. *NS AA 4, 15.*

13 (26m) PLAN TO ASSIST MAJOR INDUSTRIES. No later than June 30, 2020, the  
14 Wisconsin Economic Development Corporation shall submit to the legislature in the  
15 manner provided under s. 13.172 (2), and to the governor, a report that includes a  
16 plan for providing support to the major industries in this state that have been  
17 adversely affected by the COVID-19 public health emergency, including tourism,  
18 manufacturing, agriculture, *forest products,* construction, retail, and services. *AA 4*  
*16.*

19 (27m) UNEMPLOYMENT INSURANCE; FEDERAL ADVANCES. The secretary of  
20 workforce development shall, to the extent permitted under federal law, seek  
21 advances to the unemployment reserve fund established in s. 108.16 from the federal  
22 government, so as to allow Schedule D under s. 108.18 (4) to remain in effect through  
23 the end of calendar year 2021.

24 **SECTION 106. Initial applicability.**

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1           (1) UNEMPLOYMENT INSURANCE; CHARGING OF BENEFITS. The amendment of s.  
2           108.16 (6m) (a) and the creation of ss. 108.04 (2) (d) and 108.07 (5) (bm) first apply  
3           retroactively to weeks of benefits described in s. 108.07 (5) (bm).

4           (2) DEADLINES AND TRAINING REQUIREMENTS FALLING DURING A PUBLIC HEALTH  
5           EMERGENCY. The treatment of s. 323.265 first applies retroactively to a deadline, as  
6           defined in s. 323.265 (1) (b), or training requirement falling during the public health  
7           emergency declared on March 12, 2020, by executive order 72.

8

(END)