



Legislative Fiscal Bureau

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January 13, 2021

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Comparison of the Provisions of AB 1 as Passed by the Assembly and Senate

The attached document compares the provisions of 2021 Assembly Bill 1 as passed by the Assembly on January 7 and as passed by the Senate on January 12.

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Attachment

Comparison of Provisions of Assembly Bill 1 as Passed by the Assembly and as Passed by the Senate

ADMINISTRATION

1. EMPLOYEE TRANSFER AUTHORITY

Assembly: No provision.

Senate: Authorize the Secretary of the Department of Administration to transfer any employee from one state agency to another state agency to provide services for the receiving state agency. Require that the receiving state agency pay all salary and fringe benefit costs of the employee during the time he or she is providing services for the receiving state agency. Specify that any transfer remain in effect until rescinded by the Secretary or June 30, 2021, whichever occurs first. Require that the receiving agency may not increase the employee's salary at the time of transfer or during the time he or she is providing services for the receiving agency and the transferring agency may not increase the employee's salary at the time the employee returns to the transferring agency.

Define "state agency" to mean any office, commission, board, department, or independent agency in the executive branch of state government. The provision includes the following independent agencies: (a) Educational Communications Board; (b) Elections Commission; (c) Ethics Commission; (d) Higher Educational Aids Board; (e) Historical Society; (f) Office of Commissioner of Insurance; (g) State of Wisconsin Investment Board; (h) Public Defender Board; (i) Public Service Commission; (j) Board of Regents of the University of Wisconsin System; and (k) Technical College System Board.

Require the Secretary of DOA to submit a report to the Joint Committee on Finance no later than June 1, 2021, that provides information on all employee transfers under the provision. Specify that the report identify the number of employees transferred, the title of each employee transferred, the title the employee assumed at the receiving agency, and the reasons for each employee transfer.

2. LIMITED-TERM EMPLOYEE HOURS

Assembly: No provision.

Senate: Specify that the Director of the Bureau of Merit Recruitment and Selection in DOA's Division of Personnel Management may increase or suspend the number of hours for a limited-term appointment for the period beginning March 12, 2020, and ending June 30, 2021. The bill would extend the effective period of an identical provision included in 2019 Act 185, which expired May

10, 2020. Under current law, a limited-term appointment is a provisional appointment for less than 1,040 hours per year.

BOARD OF COMMISSIONERS OF PUBLIC LANDS

1. AUTHORIZE TRUST FUND LOANS TO MUNICIPAL UTILITIES

Assembly/Senate: Allow the Board of Commissioners of Public Lands (BCPL) to offer loans to a city, village, or town to ensure that a municipal utility under the control of the city, village, or town is able to maintain liquidity. Authorize BCPL to issue loans for amounts, terms, and conditions as may be agreed upon by a borrower. Provide no loan may be awarded after April 15, 2021. Further, specify that the Legislature determines the loans serve a public purpose, and that each loan is considered a state trust fund loan for purposes of s. 24.70 of the statutes.

Under current law, BCPL makes loans to school districts, municipalities, sewer districts and other public entities from the school trust funds that it manages. BCPL typically offers 10-year loans with low fixed interest rates. Under statute, BCPL loans must have an interest rate greater than 2%. BCPL does not charge a pre-payment penalty. In the event a municipality fails to make payment on a loan, s. 24.70 of the statutes requires DOA to intercept loan payments from state aids otherwise payable to a municipality. The provision is intended to hold harmless the corpus of the trust funds, per constitutional requirements.

The Public Service Commission throughout 2020 has instituted several moratoria on utilities terminating service of customers in arrears. At this time, the yearly moratorium on terminating electric and gas service during cold-weather months is in effect from November 1 to April 15. The provision is intended to allow BCPL to extend loans to municipal utilities so that they may continue to meet obligations in the event of a temporary loss of revenues.

BUDGET MANAGEMENT

1. TRANSFERS FROM SUM SUFFICIENT APPROPRIATIONS

Assembly/Senate: Allow the Joint Committee on Finance (JFC) to transfer up to \$100 million from sum sufficient appropriations until the earlier of the conclusion of a national emergency declared by the U.S. President in response to the COVID pandemic, or June 30, 2021. Transferred funds could be used for expenditures related to the public health emergency.

Under the provisions of 2019 Act 185, JFC was authorized to transfer up to \$75 million from sum sufficient appropriations for expenditures related to the public health emergency. This authority expired on August 9, 2020. The proposal would amend this expired authorization to increase the amount to \$100 million with a revised sunset provision.

CHILDREN AND FAMILIES

1. CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Assembly/Senate: Provide that any child care and development block grant funds the state receives under the federal Consolidated Appropriations Act (CAA) of 2021 would be credited to two current FED block grant appropriations for child welfare services that fund aids to individuals and state operations costs. Further, provide that no moneys that are credited to these appropriations may be encumbered or expended except as provided under s. 16.54 of the statutes, which would make these additional funds subject to a 14-day passive review by the Joint Committee on Finance.

It is currently estimated that the state may receive an additional \$147.0 million FED in CCDBG funds under the CAA.

EMPLOYEE TRUST FUNDS

1. REHIRED ANNUITANTS IN CRITICAL POSITIONS

Assembly: Specify that a Wisconsin Retirement System (WRS) participant who is hired by a participating employer during the national emergency declared in response to the 2019 novel coronavirus may elect to not suspend his or her annuity for the duration of the period, but no later than 60 days from enactment of the bill, if: (a) at the time of terminating employment, the participant does not have an agreement with any participating employer to return to employment or enter into a contract to provide employee services; and (b) the position for which the annuitant is hired is a critical position. Further, specify that the current break-in-service requirement of 75 days would not apply to a participant who is hired for a critical position during the period if at least 15 days have elapsed between the termination of employment and becoming a participating employee. Require the head of each state agency and each local health department, based on guidance provided by the Secretary of the Department of Health Services, to determine which positions within the respective state agency or local government are critical, for the purposes of administering the provisions applicable to rehired annuitants. The proposal would extend a provision included in 2019 Act 185, which

expired May 10, 2020.

Under current law, any WRS participant who retires on or after July 2, 2013, must suspend their annuity and become a participating WRS employee if they are employed in covered employment, or enter into a contract with a WRS employer, and are expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds. Also under current law, any WRS participant who retires on or after July 2, 2013, has a break-in-service requirement of 75 days between termination of employment and becoming a participating employee with a WRS employer. This separation from WRS employment must occur for an individual who applied for an annuity or lump sum payment to continue to qualify for an annuity or to retain the lump sum payment.

Senate: Include provision, but specify that the provision would be effective until the conclusion of a national emergency declared in response to the 2019 novel coronavirus or June 30, 2021, whichever is earlier, rather than limiting the effective period to no later than 60 days from enactment of the bill.

GENERAL PROVISIONS

1. COVID-19 LIABILITY EXEMPTION FOR ENTITIES

Assembly: Create a liability exemption for an entity for the death of or injury to an individual or damages caused by an act or omission resulting in or relating to exposure (directly or indirectly) to COVID-19 in the course of or through the performance or provision of the entity's functions or services. Specify that the provision would be in addition to, not in lieu of, other immunity granted by law, and would not limit immunity granted under any other provisions of law. Specify that immunity does not apply if the act or omission involves reckless or wanton conduct or intentional misconduct. Specify that reckless or wanton conduct or intentional misconduct does not include noncompliance with any applicable national, state, or local order requiring businesses to close or limit capacity. The provision would apply to claims beginning on March 1, 2020, but not apply retroactively to actions already filed before the effective date of the provision.

For the purposes of the liability exemption create the following definitions:

"COVID-19" means the infection caused by the novel coronavirus SARS-CoV-2 or by any viral strain originating from SARS-CoV-2, and conditions associated with the infection.

"Entity" means a partnership, corporation, association, governmental entity, tribal government, tribal entity, or other legal entity, including a school, institution of higher education, or nonprofit organization. The term would also include an employer or business owner, employee, agent, or independent contractor of the entity, regardless of whether the person is paid or an unpaid volunteer.

Senate: Include provision, as modified to:

a. Delete the provision that specifies that reckless or wanton conduct or intentional misconduct does not include noncompliance with any applicable national, state, or local order requiring businesses to close or limit capacity. [The provision specifying that immunity from liability does not apply if the act or omission involves reckless or wanton conduct or intentional misconduct would remain.]

b. Delete the provision that specifies that the liability exemptions not apply to actions filed before the effective date of the bill. Instead, specify that the provisions apply retroactively to all claims, except not to actions filed before the effective date of the bill.

2. EXTENSION OF CERTAIN PERMITS

Assembly: Specify that a person who has received a covered approval relating to challenged permit or challenged plat or survey may obtain a term or duration extension by notifying the governmental unit that issued the covered approval of the person's decision to exercise the extension not less than 90 days before the expiration of the unextended term or duration of the covered approval. Require that the notification be in writing and specify the covered approval to be extended.

Allow that the term or duration of a covered approval may be extended by an amount of time equal to 36 months plus the duration of the administrative or judicial proceeding to which the covered approval is subject. Specify that for purposes of calculating the duration of an administrative or judicial proceeding, the proceeding begins on the date of the initial filing leading to the commencement of the proceeding and ends on the date of the final order disposing of the proceeding.

Specify that these provisions would not limit any state or local unit of government from requiring that property be maintained and secured in a safe and sanitary condition in compliance with applicable laws, administrative rules, or ordinances.

These provisions would not apply to any of the following: (a) a covered approval under any programmatic, regional, nationwide, or general permit issued by the U.S. Army Corps of Engineers; or (b) the holder of a covered approval who is determined by the issuing governmental unit to be in significant noncompliance with the conditions of the covered approval as evidenced by written notice of violation or the initiation of a formal enforcement action.

Except as provided in statute related to the limitation on development regulation authority and down zoning, specify that all laws, regulations, ordinances, rules, or other properly adopted requirements that were in effect at the time the covered approval was issued would apply to the construction project, plat, or certified survey map during the period of extension. However, this provision would not apply to the extent that a governmental unit demonstrates application the provision would create an immediate threat to public health or safety.

Define "challenged permit" to mean a permit or approval to which s all of the following apply:

(a) the permit or other approval authorizes a construction project or a portion of a construction project; (b) the application for the permit or other approval includes a description of the construction project; (c) the permit or other approval was issued by a governmental unit; (d) the permit or other approval has a finite term or duration and has not expired; and (e) the permit or other approval is the subject of administrative or judicial proceedings that may result in the invalidation, reconsideration, or modification of the permit or approval.

Define "challenged plat or survey" to mean a plat or certified survey map approval that is the subject of an administrative or judicial proceedings that may result in the invalidation, reconsideration, or modification of the approval. Specify that a "construction project" would mean organized improvements to real property that, at a minimum, includes the construction or redevelopment of buildings. Define a "covered approval" to mean a challenged permit or challenged plat or survey

Define a "governmental unit" to mean the Department of Safety and Professional Services, the Department of Natural Resources, the Department of Transportation, a city, village, town, county, or special purpose district.

Senate: No provision.

3. PROHIBIT EMPLOYERS FROM REQUIRING VACCINATIONS

Assembly: Prohibit employers from requiring their employees to receive a vaccine against the SARS-coV-2 coronavirus, or show proof of having received such as vaccine, as a condition of an offer of employment or continued employment with the employer.

Senate: No provision.

4. IMMUNITY FROM CIVIL LIABILITY FOR HEALTH CARE PERSONNEL AND ENTITIES FOR ACTIONS RELATED TO COVID-19

Assembly: No provision.

Senate: Specify that any health care professional, health care provider, or employee, agent, or contractor of a health care professional or of a health care provider is immune from civil liability for the death of, or injury to, any individual or any damages caused by actions or omissions if all of the following apply: (a) the actions or omissions are committed while providing any services related to COVID -19 during a period beginning on July 10, 2020, and ending January 1, 2022; (b) the actions or omissions relate to health services provided or not provided in good faith or are substantially consistent with either of the following: (a) any direction, guidance, recommendation, or other statement made by a federal, state, or local official to address the COVID-19 outbreak; or (b) any guidance published by the Department of Health Services, DHHS, or any divisions or agencies of DHHS relied upon in good faith. Specify that this immunity does not apply to claims for action that were filed before the effective date of the bill.

This item would provide for immunity from civil liability for health care personnel and entities

similar to what was provided under a provision of Act 185, which was applicable during a state of emergency declared by the Governor on March 12, 2020, in response to the COVID-19 pandemic, and extending 60 days following the expiration of that state of emergency. This item would apply to actions or omissions retroactively to the expiration of the Act 185 immunity provision, extending through January 1, 2022. Unlike the Act 185 provision, the immunity provided for in this provision would only apply to actions or omissions occurring while providing services related to COVID-19. For the purposes of Act 185 and this item, the term "health care professional" is defined as an individual who is licensed, registered, or certified by the Medical Examining Board or the Board of Nursing. The term "health care provider" is defined in reference to a current law provision related to health care services review (s. 146.38 of the statutes) but to also include an adult family home.

GOVERNOR

1. RETURN TO WORK FOR STATE EMPLOYEES

Assembly: Require the Governor to submit a plan to the Legislature by January 31, 2021, for when all state employees holding a position with duties that were required to be performed at the offices of his or her place of employment with an agency on March 1, 2020, will return to and perform his or her duties at the offices of that agency. Define agency to mean any board, commission, committee, council, or department in state government, except the Legislature, Courts, University of Wisconsin System, Wisconsin Aerospace Authority, Health and Educational Facilities Authority, Bradley Center Corporation, UW Hospital and Clinics Authority, Wisconsin Housing and Economic Development Authority, Fox River Navigational System Authority, Wisconsin Economic Development Corporation, and Lower Fox River Remediation Authority.

Senate: No provision.

2. PUBLIC ACCESS TO STATE CAPITOL

Assembly: Require the Governor to submit a plan to the Legislature by January 31, 2021, to allow public access to the Capitol building.

Senate: No provision.

HEALTH SERVICES

1. LOCAL HEALTH OFFICERS' AUTHORITY TO TAKE ACTION TO CONTROL COVID-19

Assembly: Specify that the duration of any action taken by a local health officer to control outbreaks and epidemics of the 2019 novel coronavirus may not exceed two business days unless the governing body of the local governmental unit in which the order is intended to apply approves, by a vote of two-thirds of the elected members, an extension of the order, with each extension not to exceed 14 days. For these purposes, define a "local governmental unit" as a city, village, town or county.

Chapter 252 of the statutes assigns several duties of local health officers, and requires that they promptly take all measures necessary to prevent, suppress and control communicable diseases, report to the appropriate governing body the progress of the communicable diseases and the measures used against them, and to do what is reasonable and necessary for the prevention of disease, including forbidding public gatherings when deemed necessary to control outbreaks or epidemics.

Senate: No provision.

2. DHS AND LOCAL PUBLIC HEALTH AGENCIES' AUTHORITY TO FORBID PUBLIC GATHERING IN PLACES OF WORSHIP

Assembly: Prohibit the Department of Health Services and local public health departments from prohibiting public gatherings in places of worship to control outbreaks and epidemics of COVID-19.

Senate: No provision.

3. PROHIBIT MANDATORY SARS-COV-2 VACCINATIONS

Assembly: Prohibit the Department of Health Services (DHS) and local health officers from requiring individuals to receive a vaccine against the SARS-CoV-2 coronavirus, which causes COVID-19.

Under current law, during a public health emergency declared by the Governor, DHS may order any individual to receive a vaccination, except under certain medical circumstances or if the individual objects for religious or conscience reasons. DHS may isolate or quarantine any individual who is unwilling or unable to be vaccinated.

Senate: No provision.

4. PUBLIC HEALTH EMERGENCY DASHBOARD

Assembly: Modify the 2019 Act 185 provision that requires the Department of Administration to contract with the Wisconsin Hospital Association to produce a public health emergency dashboard, using information WHA collects from acute care hospitals so that the requirement would apply during any national public health emergency declared by the Secretary of the U.S. Department of Health and Human Services that is related to an outbreak or epidemic of communicable disease and that applies to any portion of Wisconsin.

Under Act 185, the requirement to prepare and publish a public health emergency dashboard is limited to the public health emergency related to the 2019 novel coronavirus and terminates when that public health emergency ends. The current national public health emergency has been extended through April 20, 2021.

Senate: No provision.

5. AUTOPSIES AND CREMATION OF BODIES OF PERSONS WHO DIED OF COVID-19

Assembly/Senate: Include provisions contained in 2019 Act 185 relating to autopsies and the cremation of bodies of persons who died of COVID-19, which were no longer in effect after the state declaration of a public health emergency under Executive Order 72 expired. Provide that the following provisions would be in effect for the period covered by a national emergency declared by the U.S. President in response to the 2019 novel coronavirus:

- If a physician, coroner, or medical examiner has signed the death certificate of a deceased person and listed COVID-19 as the underlying cause of death, a coroner or medical examiner must issue a cremation permit to cremate the corpse of that deceased person without viewing the corpse;

- If a physician, coroner, or medical examiner has signed the death certificate of a deceased person and listed COVID-19 as the underlying cause of death, a coroner or medical examiner must issue, within 48 hours after the time of death, a cremation permit for the cremation of a corpse of a deceased person;

- If the underlying cause of a death is determined to be COVID-19, the person required to sign the death certificate must provide an electronic signature on the death certificate within 48 hours after the death occurs; and

- If an individual who has been diagnosed with COVID-19 dies while he or she is in the legal custody of the Department of Corrections and confined to a correctional facility located in Wisconsin, the coroner or medical examiner may perform a limited examination of the deceased individual instead of a full autopsy, which may include an external examination of the body of the deceased individual, a review of the deceased individual's medical records, or a review of the deceased individual's radiographs.

Define "COVID-19" to mean an infection caused by the SARS-CoV-2 coronavirus.

Under current law, a coroner or medical examiner must view the corpse of a deceased person before issuing a cremation permit, and the corpse may not be cremated within 48 hours after the death, unless the death was caused by a contagious or infectious disease.

6. EMERGENCY MEDICAL SERVICES PROVIDERS FROM OTHER STATES

Assembly: Permit individuals or providers who hold valid credentials from other states authorizing them to act as ambulance service providers, emergency medical responders, or emergency medical services practitioners to practice under those credentials in Wisconsin without first obtaining a credential from DHS if all of the following apply: (a) the practice is necessary to ensure the continued and safe delivery of emergency medical or health care services; (b) the individual or provider is not currently under investigation and does not currently have any restrictions or limitations placed on their credential by another state or jurisdiction; (c) the need for emergency medical services reasonably prevented the individual or provider from obtaining a Wisconsin credential before practicing; (d) the individual or provider applies for a Wisconsin credential within 10 days of first practicing in Wisconsin; and (e) a provider of ambulance services or a health care facility for which the individual or provider is providing services in Wisconsin notifies DHS within five days of the individual or provider first practicing in Wisconsin. Provide that DHS may withdraw this authorization for good cause.

Provide that these provisions would not apply after June 30, 2021.

Under current law, individuals or providers with these credentials from other states may serve no more than ten patients in Wisconsin, unless they are acting: (a) under a request for mutual aid; or (b) during a state of emergency as an emergency volunteer healthcare practitioner.

Senate: No provision.

7. MA PAYMENTS TO HOSPITALS FOR NURSING FACILITY LEVEL OF CARE

Assembly/Senate: Require DHS, during a public health emergency period (as defined below), to reimburse hospitals under medical assistance (MA) for providing nursing facility level of care to individuals if all of the following apply: (a) the individual for whom the hospital provided care is enrolled in MA, has been admitted on an inpatient basis to the hospital, is eligible for discharge after receiving care in the hospital, requires nursing facility level care upon discharge, and due to the hospital being unable to locate a nursing facility that accepts the individual for admission, is unable to be transferred to a nursing facility; (b) the services provided are custodial care for which federal Medicaid financial participation is approved; and (c) the hospital notifies DHS that it is participating as a swing bed hospital under MA. Specify that the reimbursement shall be the statewide average per diem rate paid to nursing facilities or a supplement payment to hospitals for providing nursing-facility-level of care.

Require DHS to use the same standards and criteria for determining whether a hospital is eligible for reimbursement or a supplemental payment as are used by the federal Medicare program for the payment for use of swing beds or, for any hospital that is not a critical access hospital, under

the terms of a federal waiver approved under Section 1135 of the federal Social Security Act. Require DHS to seek any approval from the federal government necessary to implement this reimbursement policy. Define a "public health emergency period," for the purposes of this provision, as the period ending on June 30, 2021, or the termination of the federal public health emergency related to COVID-19, whichever is earlier.

Under MA, reimbursement for inpatient hospital services is generally based on the patient's diagnosis, and, with limited exceptions, no additional payments are made for any nursing-level custodial care provided in the hospital after a person is ready for discharge in circumstances where no nursing facility is able to accept the person. This provision would require DHS, pending federal approval, to provide additional reimbursement to the hospital for MA patients on a temporary basis, generally aligning with federal Medicare policy. Medicare provides such payments for critical access hospitals, and also, under a Medicare waiver in effect during the COVID-19 public health emergency, for general medical-surgical hospitals. Because there is currently no reporting by hospitals of custodial care provided to MA beneficiaries under these circumstances, the fiscal effect of this provision is indeterminate.

8. MA PAYMENTS FOR OUTPATIENT HOSPITAL SERVICES

Assembly/Senate: Require DHS, until the expiration of the federal public health emergency related to COVID-19 or until June 30, 2021, whichever occurs first, to provide reimbursement or a supplemental payment under medical assistance program to a hospital for any outpatient hospital service if all the following criteria are satisfied: (a) the facility at which the outpatient service is performed is operated by the hospital and certified by Medicare (regularly or on a temporary basis under a federal Medicare waiver) for outpatient services; (b) the outpatient service is not provided in the hospital's inpatient facility due to reasons associated with the COVID-19 pandemic, but normally would be reimbursable when provided in the hospital's inpatient facility; and (c) the outpatient service is one for which federal financial participation is approved. Specify that reimbursement provided in these circumstances shall not include the outpatient access payment. Require DHS to seek any approval from the federal Department of Health and Human Services necessary to provide reimbursement or a supplemental payment under this provision.

Under current law and under the state's Medicaid plan, a hospital outpatient procedure is reimbursed as an outpatient service only if it is rendered within the licensed inpatient hospital. The outpatient reimbursement is a facility fee; a separate reimbursement payment is made to the physician or other medical professional administering the service, which is paid under a physician/clinic reimbursement schedule. A procedure rendered outside an inpatient hospital (in a doctor's office, for instance) is reimbursed only under the physician/clinic reimbursement schedule. This item would require DHS, on a temporary basis, to provide a facility fee reimbursement for outpatient hospital services that are rendered outside the inpatient hospital if provided in a facility certified as an outpatient facility by Medicare and if the service would be reimbursed as an outpatient hospital service if performed in the inpatient facility. Since the amount of services rendered in these circumstances is unknown, the fiscal effect is indeterminate.

9. MA COVERAGE OF COVID-19 TESTING AND VACCINATIONS ADMINISTERED BY PHARMACIES

Assembly/Senate: Require the Department of Health Services to ensure that any vaccine against the SARS-CoV-2 coronavirus and any test for COVID-19 that is covered under medical assistance are reimbursed when the vaccine or test is administered by a pharmacy. Require DHS to certify pharmacies under MA as necessary for the purposes of complying with this provision.

10. MA -- SERVICE UTILIZATION DATA

Assembly: Require DHS to provide to a health care data aggregator all Medical Assistance fee-for-service claims and managed care encounter data and data specifications maintained by the Department, on a semiannual basis beginning the first day of the sixth month beginning after publication of the bill as law. For these purposes, define "health care data aggregator" as a data organization or entity that collects, analyzes, and disseminates health care information under Subchapter I of Chapter 153 of the statutes, and that requests DHS to provide these data. DHS currently contracts with the Wisconsin Hospital Association Information Center (WHAIC) and the Wisconsin Health Information Organization (WHIO) to implement Chapter 153 data requirements.

Require the health care data aggregator to create and make publically available a dataset of de-identified data from this information, and then to destroy the original data provided by the Department within 5 days of receipt unless the Department specifies a longer period. Require the data aggregator to make the de-identified data set available to the public and specify that the data aggregator may disseminate custom data sets and reports if the data sets and reports contain only de-identified health information.

Specify that the de-identified data must meet the requirements of the Health Insurance Portability and Accountability Act (HIPAA) privacy rule and existing requirements in the Wisconsin statutes protecting patient identity. Specify that the data provided by the Department to the data aggregator is not subject to inspection or copying as a public record.

Senate: Include provision, but remove the specified start date of the first day of the sixth month beginning after publication of the bill as law.

11. MA -- REIMBURSEMENT FOR HOSPITAL SERVICES PROVIDED IN A HOME SETTING

Assembly: Require DHS to reimburse or pay as an inpatient hospital service under the Medical Assistance program, any "hospital-associated service" provided by a hospital in a home setting. Define a hospital-associated service, for the purposes of this provision, as a health care service that is all of the following: (a) of the same type as those furnished by a hospital in an inpatient or outpatient facility, (b) of a type reimbursable under the federal Medicare program as a hospital service, and (c) is provided in a home setting, outside of the hospital's licensed facilities.

Specify that if the federal Centers for Medicare and Medicaid Services (CMS) has approved

a hospital to provide any hospital-associated service, DHS may apply to and enforce upon the hospital as the state standard for the hospital-associated service any rule or standard that is required by CMS. Exempt hospitals providing these hospital-associated services from being required to obtain a license as a home health agency.

Federal policies established for Medicare on November 25, 2020, known as Acute Care Hospital At Home, allow hospitals to provide these in-home services under specific rules and standards. Currently, patients must be admitted to an emergency room or inpatient facility and examined by a physician before being transferred to in-home care, and patient evaluations are required to be performed by registered nurses and other healthcare professionals according to minimum daily schedules. This item requires DHS to provide reimbursement under MA, as a hospital inpatient service, any hospital-associated service. The fiscal effect of this provision is indeterminate, and would depend upon the extent to which hospital-associated services are in addition to, or are a substitute for, other reimbursable services, including currently reimbursable hospital services or services provided by a home health agency.

Senate: Include provision, but specify that it would not apply on or after January 1, 2022.

12. COVERAGE OF VACCINATIONS UNDER SENIORCARE

Assembly/Senate: Require DHS, by January 15, 2021, to cover and provide reimbursement for vaccinations under SeniorCare in accordance with provisions of Act 185, regardless of whether a waiver related to coverage or reimbursement of vaccinations is granted by the federal Department of Health and Human Services.

SeniorCare provides financial assistance for the purchase of prescription drugs for enrolled individuals over age 64 who are not eligible for full benefits under the medical assistance program. The state receives federal Medicaid matching funds for prescription drug coverage for some SeniorCare beneficiaries under the terms of a federal waiver. A provision of Act 185 expanded SeniorCare benefits to also cover certain immunizations when not covered by other insurance, such as Medicare. The Department is in the process of seeking an amendment to the federal waiver to account for the Act 185 change. This item would require DHS to provide coverage of vaccinations by January 15, 2021, even if the state does not receive approval of the waiver amendment by that time.

13. NURSING HOME AND ASSISTED LIVING FACILITY VISITATION BY ESSENTIAL VISITORS

Assembly/Senate: Require nursing homes and assisted living facilities to allow at least one "essential visitor," who agrees to comply with any public health policies of the nursing home or assisted living facility, to enter the nursing home or assisted living facility to visit the resident in compassionate care situations, including any of the following: (a) the resident has recently been admitted to the nursing home or assisted living facility and is experiencing difficulty in adjusting to the change in environment and lack of family presence; (b) the resident is grieving the recent death of a friend or family member; (c) the resident is experiencing weight loss or dehydration due to lack

of support from family or caregivers when eating or drinking; and (d) the resident is experiencing emotional distress or a decline in ability or willingness to communicate.

Specify that, despite the provision described previously, a nursing home or assisted living facility may refuse to allow access for visitation to any essential visitor who refuses to comply with public health policies of the nursing home or assisted living facility.

Specify that if the federal Centers for Medicare and Medicaid Services (CMS) issues guidance that is more restrictive in allowing visitation than described above, a nursing home or assisted living facility may comply with that guidance instead of complying with the guidance described above.

Specify that this section applies at any time the nursing home or assisted living facility limits visitors to the nursing home or assisted living facility due to an outbreak or epidemic of communicable disease in the community in which the nursing home or assisted living facility is located.

Define "essential visitor" to mean: (a) an individual to visit and provide support to the resident in the nursing home or assisted living facility who is designated by a nursing home resident or assisted living facility resident or by the resident's guardian or health care agent under a power of attorney; or (b) the guardian of a nursing home or assisted living facility resident or the health care agent under a power of attorney for health care for a nursing home or assisted living facility resident.

INSURANCE

1. NO COST SHARING FOR COVID-19 TESTING AND VACCINATION

Assembly/Senate: Require any self-insured health plan offered by a local government or school district, any health insurance policy, and any state health plan that generally covers vaccination and testing for infectious diseases to provide coverage of vaccination and testing for COVID-19 without imposing any copayment or coinsurance on the individual covered under the policy or plan, for any such vaccination and testing administered prior to conclusion of a national emergency declared by the U.S. President in response to COVID-19 or until June 30, 2021, whichever is earlier.

This item modifies the period of applicability of a provision of 2019 Act 185, which expires on March 13, 2021. In addition, the Act 185 provision would be modified to extend the requirement to COVID-19 vaccination. A provision of the federal Families First Coronavirus Response Act provides for similar restrictions on cost sharing with respect to COVID-19 testing administered for diagnostic purposes. Likewise, under provisions of the federal Affordable Care Act and other federal legislation enacted in response to the COVID-19 pandemic, COVID-19 vaccination must be covered without cost sharing.

2. PRESCRIPTION DRUG LIMITS

Assembly: Prohibit any health insurance policy, state employee health plan, or self-insured health plan offered by a local government or school district, or a pharmacy benefit manager acting on behalf of a policy or plan from doing the following: (a) requiring prior authorization for early refills of a prescription drug or otherwise restrict the period of time in which a prescription drug may be refilled; or (b) imposing a limit on the quantity of prescription drugs that may be obtained if the quantity is no more than a 90-day supply. Specify that these restrictions do not apply to a prescription drug that is classified as a controlled substance by the Controlled Substances Board. Specify that this provision is applicable until the conclusion of a national emergency declared by the U.S. President in response to COVID-19 or until June 30, 2021, whichever is earlier.

A provision of 2019 Act 185 imposed identical restrictions, applicable during the public health emergency declared by the Governor on March 12, 2020.

Senate: Include provision, but specify that it would apply until June 30, 2021.

3. OUT-OF-NETWORK CHARGES AND PAYMENTS DURING COVID-19 PANDEMIC

Assembly: Specify that, prior to the conclusion of a national emergency declared by the U.S. President in response to COVID-19 or until June 30, 2021, whichever is earlier, any defined network or preferred provider health plan may not require an enrollee to pay, including cost sharing, for a service, treatment, or supply rendered by a provider that is not in the plan's network more than the enrollee would pay if the service, treatment, or supply is rendered by an in-network provider, if the following apply to: (a) a service, treatment, or supply that is related to a diagnosis or treatment for COVID-19; or (b) any service, treatment, or supply that is rendered by an out-of-network provider because no in-network provider is available due to the COVID-19 pandemic. Specify that, in these circumstances, the plan must reimburse the out-of-network provider at 225 percent of the rate the federal Medicare program reimburses the provider for the same or a similar service, treatment, or supply in the same geographic area.

Specify that, prior to the conclusion of a national emergency declared by the U.S. President in response to COVID-19 or until June 30, 2021, whichever is earlier, any health care provider or facility that renders a service, treatment, or supply to an enrollee of a defined network plan or preferred provider plan that does not include the health provider or facility in its network must accept as payment in full any payment that is at least 225 percent of the Medicare rate for a similar service, treatment, or supply in the same geographic area. Prohibit the provider from charging the enrollee an amount that exceeds the amount the provider or facility is reimbursed by the defined network plan or preferred provider plan.

Specify that these provisions do not apply to dental treatments, services, or supplies.

A similar provision was included in 2019 Act 185, except that the restrictions expired 60-days following the public health emergency declared by the Governor on March 12, 2020. Also, the

Act 185 provision did not exclude dental services.

Senate: Include provision, with the following changes: (a) delete the exclusion of dental treatments, services, or supplies; and (b) specify that these provisions do not apply to the reimbursement for the administration of a vaccination for COVID-19 and, instead, specify that payment for the administration of the COVID-19 vaccination must comply with federal provisions that require the administration of COVID-19 vaccination to be covered by insurance plans without enrollee cost sharing.

4. LIABILITY INSURANCE FOR PHYSICIANS AND NURSE ANESTHETISTS

Assembly/Senate: Specify that any physician or nurse anesthetist for whom Wisconsin is not a principal place of practice but who is authorized to practice in Wisconsin on a temporary basis, may fulfill the state's practice liability insurance requirements by filing with the Office of the Commissioner of Insurance a certificate of insurance for a policy of health care liability insurance issued by an insurer that is authorized in a jurisdiction accredited by the National Association of Insurance Commissioners. Specify that such a physician or nurse anesthetist may elect, in a manner specified by the Insurance Commissioner by rule, to be subject to the state's liability provisions and the state's injured patients and families compensation program. Specify that this provision is applicable until the conclusion of a national emergency declared by the U.S. President in response to COVID-19 or until June 30, 2021, whichever is earlier.

An identical provision was included in 2019 Act 185, applicable during the public health emergency declared by the Governor on March 12, 2020.

LEGISLATURE

1. LEGISLATIVE OVERSIGHT OF FEDERAL COVID-19 FUNDS

Assembly: Specify that, as soon as practical after receipt of federal funds related to COVID-19, the Governor must submit a plan to the Joint Committee on Finance for expenditure of those funds under a 14-day passive review process. The provision would apply to federal COVID-19 funds received by the state after the effective date of the bill and ending on June 30, 2021, pursuant to COVID-19 legislation enacted during the 116th or 117th Congress. The Governor may implement the plan only as approved by the Committee.

Currently, with limited exceptions, the Governor is authorized, by statute, to receive and direct the expenditure of federal funds without legislative oversight.

Senate: No provision.

PUBLIC INSTRUCTION

1. OPEN ENROLLMENT PROGRAM MODIFICATIONS

Assembly: Make the following changes to the full-time open enrollment program:

a. Specify that if a pupil's parent applies under the "best interest of the pupil" criteria under the alternative application procedure, the pupil's resident school district may not reject the application for any reason, during the 2020-21 and 2021-22 school years.

b. Specify that the three district limit on the number of nonresident school districts to which a parent may submit applications under the alternative application procedure would not apply during the 2020-21 or 2021-22 school year for attendance in a nonresident school district in the 2020-21 or 2021-22 school years. Provide that the three district limit would not apply under the standard application procedure for applications submitted during the 2020-21 school year for attendance in the 2021-22 school year.

Specify that the provisions relating to the alternative application procedure would first apply to applications submitted under the alternative application procedure on the effective date of the proposal.

Under the open enrollment program, a pupil may attend a public school located outside the pupil's resident district if the pupil's parent complies with certain application dates and procedures. Under the regular application procedure, the pupil's parent must submit an application to the nonresident district between February and April of the preceding school year. Under the alternative application procedure, the pupil's parent may apply to a nonresident district at any point in the school year if the pupil meets one of the criteria specified in statute.

Under either application procedure, parents are prohibited from submitting applications to more than three nonresident districts in any school year. Also, a pupil can attend a prekindergarten, four-year-old kindergarten, early childhood or school-operated child care program in a nonresident district only if the pupil's resident district offers the same type of program and the pupil is eligible to attend that program in the resident district.

One of the criteria under the alternative procedure is that the parent of the pupil and the resident and nonresident districts agree that attending school in the nonresident district is in the best interests of the pupil. If the resident district does not agree, the parent may appeal the resident district's decision to DPI.

Senate: No provision.

2. VIRTUAL INSTRUCTION REPORTS

Assembly/Senate: Require school boards to submit a report to the Department of Public

Instruction (DPI) within 30 days of the end of each semester in the 2020-21 and 2021-22 school year regarding virtual instruction provided during the semester. A school board would not be required to submit a report in the 2021-22 school year for a semester in which virtual instruction is not provided in lieu of in-person instruction, or to include information related to virtual instruction provided by a virtual charter school.

Require that each report include the following: (a) whether or not virtual instruction was implemented in the school district during the semester, and, if so, in which grades it was implemented and the process for implementing the virtual instruction, including whether the school board contracted with an experienced virtual instruction provider (defined as a private entity that has provided virtual instruction to pupils for no less than 12 months) to provide all or part of the virtual instruction implemented in the school district during the semester; (b) whether or not in-person instruction was provided in the school district during the semester, and if so, which grades it was provided and the number of school days of in-person instruction that were provided in each grade; (c) any challenges or barriers the school board faced related to implementing virtual instruction during the semester; and (d) the total amount by which the school board reduced or increased expenditures in each of the following categories because the school board provided virtual instruction: utilities, transportation, food service, salary and fringe benefits for personnel (including teachers, support staff, and administrators, and including reductions that result from lay-offs), and contract terminations.

Require DPI to compile and submit the information received from the school board reports to the appropriate standing committees of the Legislature no later than the following dates: (a) April 1, 2021, for reports received for the first semester of the 2020-21 school year; (b) September 1, 2021, for reports received for the second semester of the 2020-21 school year; (c) April 1, 2022, for reports received for the first semester of the 2021-22 school year; and (d) September 1, 2022, for reports received for the second semester of the 2021-22 school year.

A similar report was required for the 2019-20 school year under 2019 Act 185.

3. ATHLETIC ELIGIBILITY FOR OPEN ENROLLMENT PUPILS

Assembly: Specify that in the 2021-22 school year, no school district could be a member of an interscholastic athletic association, unless, for purposes of determining pupil eligibility in 2021-22, the association does the following: (a) if a request to waive the association's transfer rules is submitted on behalf of a pupil, considers the method by which educational programming was delivered in the 2020-21 and 2021-22 school year (including virtual instruction, in-person instruction, or a combination of both) to be an extenuating circumstance that justifies the pupil transferring schools; and (b) if a waiver is granted based on the circumstances described in (a), allows the pupil to participate in all levels of competition, including varsity competition, in the 2020-21 and 2021-22 school year.

Under Wisconsin Interscholastic Athletic Association (WIAA) eligibility rules, pupils may be considered ineligible or limited to non-varsity competition if they transfer to a school outside of their school district of residence, unless they receive a waiver from WIAA. Pupils who transfer after their 10th grade year are restricted to non-varsity sports for one calendar year.

Senate: No provision.

4. INTERSCHOLASTIC ATHLETICS AND EXTRACURRICULAR ACTIVITIES FOR VIRTUAL CHARTER SCHOOL PUPILS

Assembly: Provide that a pupil who attends a virtual charter school would be allowed to participate in interscholastic athletics and extracurricular activities in the pupil's school district of residence on the same basis and to the same extent as pupils enrolled in the district. The virtual charter school would be required to provide the school board with a written statement that the pupil meets the board's requirements for participation in interscholastic athletics based on age and academic and disciplinary records upon request.

Specify that these provisions would take effect on the July 1 after publication.

Senate: No provision.

5. LIMITS ON SCHOOL CLOSURE TO IN-PERSON INSTRUCTION

Assembly: Specify that a school board could not do either of the following, beginning on the effective date of the bill and ending on June 30, 2022: (a) close a school building to in-person instruction for a period that exceeds 14 consecutive days; or (b) close a school building to in-person instruction for a grade level for a period that exceeds 14 consecutive days. A school board could extend a closure by a two-thirds vote of the members of the school board. Each extension could be for no more than 14 consecutive days.

A school building would be considered to be closed to in-person instruction if the building is open for in-person instruction only to pupils receiving special education or related services. This provision would not apply to virtual charter schools.

Senate: No provision.

6. SHORT-TERM SUBSTITUTE TEACHERS

Assembly: Specify that an individual may teach in a public school as a short-term substitute teacher without a license or permit issued by DPI if the individual meets the following requirements: (a) the individual has submitted a complete application for a short-term substitute teacher license, and DPI has not made a decision on the application; and (b) DPI conducts a background investigation of the individual, and the results of the background investigation would not make the individual ineligible for a teaching license. Define short-term substitute teacher as a substitute teacher who teaches for no more than 45 consecutive days in the same teaching assignment. Provide that the individual could not continue to teach as a short-term substitute teacher without a license if DPI decided not to issue a license to the individual after reviewing his or her application.

Require DPI to conduct a background investigation as soon as practicable upon receiving a complete application for a short-term substitute teacher license and notify the applicant, in writing, of whether or not the results of the background investigation make the individual ineligible for a teaching license.

These provisions would apply until the conclusion of the national emergency declared by the U.S. President in response to the 2019 novel coronavirus or until June 30, 2022, whichever is earlier.

Senate: No provision.

7. WAIVERS FOR PRIVATE SCHOOL CHOICE PROGRAMS, SPECIAL NEEDS SCHOLARSHIP PROGRAMS, AND INDEPENDENT CHARTER SCHOOLS

Assembly: No provision.

Senate: Extend DPI's waiver authority related to the special needs scholarship programs, private school choice programs, and independent charter schools that was first granted in 2019 Act 185. Under the extension, the waiver authority would apply until October 31, 2021, rather than October 31, 2020 as under current law. Specify that DPI could do any of the following:

Waive any requirement in Ch. 115 to 121 of state statutes or administrative rules promulgated by DPI related to the special needs scholarship program and the private school choice programs; private schools participating in a choice program or the special needs scholarship program; or independent charter schools for the 2020-21 school year, or both the 2019-20 and 2020-21 school years, in addition to the 2019-20 school year as under Act 185; and

Establish an alternate deadline for any requirement in Ch. 115 to 121 of state statutes or administrative rules promulgated by DPI related to the special needs scholarship program or private school choice programs if the original deadline is either of the following: (a) a deadline that occurs during the period beginning on the first day of the public health emergency declared on March 12, 2020, and ending on October 31, 2021; or (b) a deadline for a requirement that impacts a date during the period beginning on the first day of the public health emergency declared on March 12, 2020, and ending on October 31, 2021.

Prohibit DPI from issuing waivers under this provision relating to the pupil assessment program or the standardized reading assessment for third grade pupils.

Require that each waiver specify the school year or school years to which it would apply.

SAFETY AND PROFESSIONAL SERVICES

1. PRESCRIPTION ORDER EXTENSIONS

Assembly: Authorize a pharmacist to extend a prescription, for up to a 30-day supply, without obtaining an extension of the prescription order from the healthcare professional who wrote the prescription, if: (a) the prescriber has not explicitly prohibited extensions of the prescription; and (b) the prescribed medicine is not a controlled substance. Provide that a patient may only receive one such extension, and a pharmacist must notify the prescriber after making such an extension.

Provide that this provision would take effect on the proposal's general effective date and end at the conclusion of the national emergency declared in response to the 2019 novel coronavirus or on June 30, 2021, whichever is earlier. An identical provision was enacted as part of 2019 Wisconsin Act 185, but terminated 30 days after Executive Order 72 expired.

Under current law, a pharmacist may refill up to a seven-day supply of a prescription without orders from the prescriber under the following, more limited circumstances: (a) the pharmacist must attempt to contact the prescriber before extending the prescription; (b) the patient must have previously refilled the same prescription at the same pharmacy, or a pharmacy in the same chain; and (c) the pharmacist must determine that refilling the prescription is essential to avoid undesirable consequences for the patient's health.

Senate: Include provision, but remove reference to the national emergency, specifying only that this provision would expire on June 30, 2021.

2. AUTHORIZE PHARMACY STUDENTS TO ADMINISTER VACCINES

Assembly: Authorize first- and second-year pharmacy students to administer any vaccine pursuant to a prescription order, vaccination protocol, or standing order, and to administer without a prescription order any vaccine listed in the current immunization schedules recommended by the federal advisory committee on immunization practices and published by the federal Centers for Disease Control and Prevention. Further, specify that a first- or second-year pharmacy student who administers a vaccine must complete 12 hours of training in vaccine storage, protocols, administration technique, emergency procedures, and record keeping to administer vaccines. Under current law, pharmacy students who have completed two years of pharmacy school may administer vaccines under the supervision of a pharmacist.

Senate: Include provision, but limit first- and second-year pharmacy students' authorization to administer vaccines to only against SARS-CoV-2.

3. AUTHORIZE DENTISTS TO ADMINISTER COVID-19 AND FLU VACCINES

Assembly: Authorize dentists to administer COVID-19 and flu vaccines, subject to certain

restrictions.

Provide that, in order to administer COVID-19 or flu vaccine, a dentist must complete 12 hours of training on vaccine storage, protocols, administration technique, emergency procedures, and record keeping and must have in effect liability insurance that covers the dentist against loss, expense, and liability resulting from errors, omissions, or neglect in the administration of these vaccines in an amount that is not less than \$1,000,000 for each occurrence and \$2,000,000 for all occurrences in any one policy year.

Prohibit a dentist from administering a COVID-19 or flu vaccine to a child under the age of six unless the vaccine is administered pursuant to a prescription order within 29 days immediately preceding the day on which the vaccine is administered, and the dentist completes training approved by the Dentist Examining Board that includes administering vaccines to children under the age of six and maintains proof of completing the course of instruction.

Require a dentist who administers a COVID-19 or flu vaccine to update the Wisconsin Immunization Registry within seven days of administering the vaccine.

Under current law, vaccines may be administered only by physicians, physician assistants, nurses, pharmacists, and certain pharmacy students.

Senate: No provision.

4. LICENSING AND REGULATION OF THIRD-PARTY LOGISTICS PROVIDERS

Assembly/Senate: Create an optional license for third-party logistics providers that are located in Wisconsin or that are located outside the state but that provide third-party logistics provider services in Wisconsin.

License Applications. Require a license applicant to submit certain information, prior to licensure, including: (a) the name, business address, and telephone number of the applicant; (b) all trade or business names used by the applicant; (c) names, addresses and telephone numbers of contact persons for all facilities used by the applicant for warehousing, distribution, or other services on behalf of the manufacturer of prescription drugs; (d) the type of ownership or operation for the applicant's business; (e) if the applicant's business is a partnership, the name of each partner and the name of the partnership; (f) if the applicant's business is a corporation, the name of each corporate officer and director, the name of the corporation, and the state of incorporation; (g) if the applicant's business is a sole proprietorship, the name of the sole proprietor and the name of the business entity; (h) a list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to warehouse or distribute prescription drugs, or to provide third-party logistics services; (i) the name, address, and telephone number of a designated representative; and (j) a statement that each facility used for the applicant has been inspected in the three-year period immediately preceding the application by the Board, a pharmacy examining board in another state, the National Association of Boards of Pharmacy, or another accrediting body recognized by the Board, with the date of each inspection.

Require applicants to swear or affirm the truthfulness of each item in the application.

Personal Information Statement. For a person identified as a designated representative, require a personal information statement that includes the following: (a) the person's date and place of birth; (b) the person's place of residence for the seven-year period immediately preceding the date of the application; (c) the person's occupations, positions of employment, and offices held during the seven-year period immediately preceding the date of the application; (d) the name and address for each business, corporation, or other entity listed under (c); (e) a statement indicating whether the person has been, during the seven-year period immediately preceding the date of the application, the subject of any proceeding for the revocation of any business or professional license and the disposition of the proceeding; (f) a statement indicating whether the person has been, during the seven-year period immediately preceding the date of the application, enjoined by a court, either temporarily or permanently, from possessing, controlling, or distributing any prescription drug, and a description of the circumstances surrounding the injunction; (g) a description of any involvement by the person during the past seven years with any business, including investments other than the ownership of stock in a publicly traded company or mutual fund, that manufactured, administered, prescribed, distributed, or stored pharmaceutical products or drugs, and a list of any lawsuits in which such a business was named as a party; (h) a description of any misdemeanor or felony criminal offense of which the person was, as an adult, found guilty, whether adjudication of guilt was withheld or the person pleaded guilty or no contest, provided that if the person is appealing a criminal conviction, the application must include a copy of the notice of appeal, and the person must submit a copy of the final disposition of the appeal not more than 15 day after a final disposition is reached; and (i) a photograph of the person taken within the 12-month period immediately preceding the date of the application.

Specify that where operations are conducted at more than one facility, a person acting as a third-party logistics provider or out-of-state third-party logistics provider may apply to obtain a license from the Board for each such facility. Exempt license applications from current statutory provisions relating to access to records and fees, as provided under s. 19.35 of the statutes, and prohibit their disclosure except as necessary for compliance with and enforcement of these provisions. Specify that license would be renewed on July 1 of each even-numbered year.

Authorize the Board to grant a license if the applicant pays the application fee and the inspections of the business satisfy requirements adopted by the Board. Further, all of the following must apply to the designated representative: (a) the person is at least 21 years old; (b) the person has been employed full time for at least three years in a pharmacy or with a wholesale prescription drug distributor in a capacity related to the dispensing of and distribution of, and record keeping related to, prescription drugs; (c) the person is employed by the applicant full time in a managerial position; (d) the person is physically present at the third-party logistics provider's or out-of-state third-party logistics provider's facility during regular business hours and is involved in and aware of the daily operation of the third-party logistics provider or the out-of-state third-party logistics provider (except that this provision would not preclude the person from taking authorized sick leave and vacation time or from being absent from the facility for other authorized business or personal purposes); (e) the person is actively involved in and aware of the daily operation of the third-party logistics provider or the out-of-state third-party logistics provider; (f) the person is a designated representative for only one applicant at any given time (except if more than one provider is located at the facility and the

providers located at the facility are members of an affiliated group); (g) the person has not been convicted of violating any federal, state, or local law relating to distribution of a controlled substance; (h) the person has not been convicted of a felony; (i) the person submits to DSPS two fingerprint cards, each bearing a complete set of the applicant's fingerprints, which the Department of Justice must provide to the Federal Bureau of Investigation for purposes of verifying the identity of the person and obtaining the person's criminal arrest and conviction record.

Interim Licenses. Require the Pharmacy Examining Board to grant an interim license to a third-party logistics provider if, in the opinion of the Board, the provider is currently in compliance with federal law relating to third-party logistics providers. Require holders of interim licenses to apply for a regular license on or after the date that emergency rules or permanent rules implementing the third-party logistics provider licenses take effect, whichever is sooner. An interim license granted under this provision expires 90 days after those rules take effect. Provide that no fee is required for an interim license.

Rules. Direct the Pharmacy Examining Board to promulgate rules that regulate third-party logistics providers and out-of-state third-party logistics providers that comply with the federal Drug Supply Chain Security Act. However, restrict the Board's authority to promulgate rules to only rules that are equivalent to requirements under the federal Drug Supply Chain Security Act, except rules related to the inspections of facilities and delivery vehicles, and only rules that do not mandate licensing under state law. Authorize the Board to promulgate emergency rules, effective until June 30, 2023, or the date on which permanent rules take effect, whichever is sooner. However, exempt the Board from providing a finding of emergency or evidence that promulgating emergency rules is necessary for the preservation of the public peace, health, safety or welfare.

Require a third-party logistics provider to allow the Board and authorized federal, state, and local law enforcement officials to enter and inspect their facilities and delivery vehicles, to audit records and written operating procedures, and to confiscate prescription drugs and records to the extent authorized by law, rule, or regulation.

Applicability. Specify that these provisions would not apply if the Pharmacy Examining Board determines that the federal Food and Drug Administration has established a licensing program for third-party logistics providers under federal law and that state licensure is not required for a resident third-party logistics provider to provide third-party logistics services in another state.

Under current law, a third-party logistics provider is defined as a person that contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of the manufacturer but does not take title to the manufacturer's prescription drug or have general responsibility to direct the prescription drug's sale or disposition.

5. RESIDENTIAL DWELLING INSPECTIONS

Assembly: Specify a dwelling unit occupied in accordance with local ordinances before undergoing all inspections for compliance with the one- and two-family dwelling code may be granted an occupancy permit if the dwelling unit later passes a final inspection for compliance with the one- and two-family dwelling code. Further, provide if an occupancy permit is granted after the

dwelling is occupied, the permit may not list a missed inspection as a finding.

Senate: No provision.

6. HEALTH SERVICES PROVIDERS FROM OTHER STATES

Assembly/Senate: Provide that a health care provider from another state may provide services within the scope of the credential that the health care provider holds, and DSPS must grant the health care provider a temporary credential to practice, if the health care provider applies to DSPS for a temporary credential within 30 days of beginning to provide health care services for a health care employer.

Application. Specify that the health care provider must include in the application an attestation of all of the following: (a) the date on which the health care provider first provided health care services in this state under this provision; (b) that the health care provider holds a valid, unexpired, credential granted in another state; (c) the health care provider is not currently under investigation and no restrictions or limitations are currently placed on the health care provider's credential by the credentialing state or any other jurisdiction; (d) the health care provider has applied for a permanent credential granted by DSPS or an examining board, as applicable (although this would not apply during the period covered by a national emergency declared by the U.S. President in response to the 2019 novel coronavirus or during the 30 days immediately after the national emergency ends).

Employer Attestation. Specify that if the health care provider provides services other than services provided through telehealth, the health care employer of the health care provider must attest all of the following to DSPS within 10 days of the date on which the health care provider begins providing health care services in this state: (a) the health care employer has confirmed that the health care provider holds a valid, unexpired credential granted by another state; (b) to the best of the health care employer's knowledge and with a reasonable degree of certainty, the health care provider is not currently under investigation and no restrictions or limitations are currently placed on the health care provider's credential by the credentialing state or any other jurisdiction.

Provider Rights and Responsibilities. Provide that a health care provider who practices within the scope of a temporary credential has all rights and is subject to all responsibilities, malpractice insurance requirements, limitations on scope of practice, and other provisions that apply under state statutes to the practice of the health care provider.

Effective Period and Expiration of Temporary Credential. Provide that a temporary credential becomes effective on the date identified in the attestation that the health care provider first provided health care services in this state. Specify that a temporary credential would expire on the date that DSPS, or an examining board, as applicable, grants or denies the application for a permanent credential submitted by the health care provider.

Provide that if a health care provider provides health care services only during the period covered by a national emergency declared by the U.S. President in response to the 2019 novel coronavirus or during the 30 days immediately after the national emergency ends, a temporary credential to the health care provider would expire 30 days after the national emergency ends.

Telehealth Services. Provide that a health care provider who practices within the scope of a temporary credential granted under this section may provide services through telehealth to a patient located in Wisconsin.

Definitions. For these purposes, define a “credential” to mean a license, permit, certificate, or registration and a "health care employer” to mean a system, care clinic, care provider; long-term care facility, or any entity whose employed, contracted, or affiliated staff provide health care service to individuals in this state.

Define a "health care provider" as an individual who holds a valid, unexpired credential granted by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as the acts that any of the following are licensed or certified to perform: (a) a nurse licensed under Chapter 441; (b) a chiropractor licensed under Chapter 446; (c) a dentist licensed under Chapter 447; (d) a physician, physician assistant, perfusionist, or respiratory care practitioner licensed or certified under subchapter II of Chapter 448; (e) a physical therapist or physical therapist assistant licensed under subchapter III of Chapter 448 or who holds a compact privilege under Subchapter IX of Chapter 448; (f) a podiatrist licensed under subchapter IV of Chapter 448; (g) a dietician certified under subchapter V of Chapter 448; (h) an athletic trainer licensed under subchapter VI of Chapter 448; (i) an occupational therapist or occupational therapy assistant licensed under subchapter VII of Chapter 448; (j) an optometrist licensed under Chapter 449; (k) a pharmacist licensed under Chapter 450; (l) an acupuncturist certified under Chapter 451; (m) a psychologist licensed under Chapter 455; (n) a social worker, marriage and family therapist, or professional counselor certified or licensed under Chapter 457 or a clinical substance abuse counselor certified under Chapter 440; (o) a speech-language pathologist or audiologist licensed under subchapter II of Chapter 459; or (p) a message therapist or bodywork therapist licensed under Chapter 460.

SHARED REVENUE AND TAX RELIEF

1. INTEREST AND PENALITIES ON 2021 PROPERTY TAXES

Assembly: For any property taxes payable in 2021 that are due after January 1, 2021, allow taxation districts, after making a general or case-by-case finding of hardship, to waive any interest charges and penalties for a late installment payment, provided that the full amount of the payment is received on or before October 1, 2021. Specify that a taxation district may not waive interest and penalties otherwise due unless the county board of the county where the taxation district is located first adopts a resolution authorizing such a waiver and the taxation district subsequently adopts a similar resolution. Require that the resolution establish criteria for determining hardship. For any property taxes payable in 2021 that are delinquent after October 1, 2021, specify that interest charges and penalties would begin accruing as of October 1, 2021. Consider any payment received on or

before October 1, 2021, or by an installment date after October 1, 2021, to be considered timely for the purposes of allowing taxpayers to submit a claim to appeal unlawful taxes, excessive taxes, or for taxes paid in protest due to an outstanding contested assessment. Require counties that have adopted a waiver resolution to settle any taxes, interest, or penalties collected on or before July 31, 2021, on August 20, 2021, and then settle the remainder of any unpaid taxes, interest, or penalties on September 20, 2021. Specify that the August 20, 2021, settlement is to be distributed proportionally to underlying taxing jurisdictions.

Senate: No provision.

UNIVERSITY OF WISCONSIN

1. ELIGIBLE VOLUNTEER OR WORK ACTIVITY

Assembly: No provision.

Senate: Require that the Board of Regents ensure that each University of Wisconsin institution offers students an opportunity to use hours engaged in an eligible activity to satisfy course requirements to the extent appropriate, as determined by the institution. Eligible activity would be defined as volunteering or working for at least one semester to assist Wisconsin in responding to the COVID-19 pandemic. Specify that this provision would first apply to the first semester beginning after the effective date of the bill.

WISCONSIN TECHNICAL COLLEGE SYSTEM

1. ELIGIBLE VOLUNTEER OR WORK ACTIVITY

Assembly: No provision.

Senate: Require that the Wisconsin Technical College System Board ensure that each WTCS college offers students an opportunity to use hours engaged in an eligible activity to satisfy course requirements to the extent appropriate, as determined by the district board. Eligible activity would be defined as volunteering or working for at least one semester to assist Wisconsin in responding to the COVID-19 pandemic. Specify that this provision would first apply to the first semester beginning after the effective date of the bill.

WORKFORCE DEVELOPMENT

1. UNEMPLOYMENT INSURANCE - WAITING WEEK

Assembly/Senate: Extend the 2019 Act 185 waiver of the unemployment insurance (UI) waiting week requirement through the week ending March 13, 2021. Currently, under Act 185, the waiting week requirement is waived from March 12, 2020, through February 7, 2021. Under Act 185 and this provision, the Department of Workforce Development (DWD) must seek the maximum amount of federal reimbursement for UI benefits that are payable for the first week of a claimant's benefit year as a result of the application of this provision.

Under current law, a UI claimant's waiting period is the first week of a claimant's benefit year for which the claimant is otherwise eligible for regular benefits. During a claimant's waiting period, no benefits are payable to the claimant. The waiting period does not affect a claimant's maximum benefit amount, which is 26 weeks of regular state benefits. However, claimants who do not reach the state's 26-week limit effectively receive one fewer week of benefits due to the waiting week requirement. A claimant must serve one waiting week per benefit year.

The CARES Act provided temporary 100% federal funding of the first week of regular UI benefits through the week ending December 26, 2020, for states with no waiting week. Under the Continued Assistance for Unemployed Workers Act of 2020, this provision was extended to end on March 14, 2021, but at a 50% federal reimbursement level for weeks starting after December 26, 2020.

2. UNEMPLOYMENT INSURANCE - BENEFIT CHARGING

Assembly/Senate: Provide that the non-charging of certain benefits as provided under 2019 Act 185 be extended through the week ending March 13, 2021. Under 2019 Act 185, if a UI benefits claim or work-share plan is related to a public health emergency declared on March 12, 2020, by Executive Order 72, regular benefits for weeks occurring after March 12, 2020, and before December 31, 2020, must not be charged to an employer as normally provided. Instead, UI benefits for those weeks are charged to either: (a) the balancing account of the UI trust fund, for claims attributable to contribution employers subject to regular unemployment payroll taxes; or (b) DWD's interest and penalties account, for claims attributable to employers that pay UI benefits on a reimbursement basis and are not subject to contribution requirements.

Require DWD to presume that an initial claim for benefit years beginning on or after March 15, 2020, through March 13, 2021, relates to the public health emergency declared on March 12, 2020, by Executive Order 72, unless the claimant's most recent separation from employment is due to a labor dispute, voluntary termination of work, discharge for misconduct, or discharge for substantial fault. An employer is not required to submit a request to the Department for charging relief described under this provision.

3. UNEMPLOYMENT INSURANCE - PLAN TO REDUCE PROCESSING BACKLOG

Assembly: Require DWD, no later than 30 days after the effective date of the bill, to develop a plan to reduce the number of weekly claims for UI benefits in processing to levels comparable to those in January, 2020, and February, 2020. Require the plan to include measures to ensure maintenance of program integrity and fraud detection. Specify that DWD must submit the plan to the appropriate standing committees of the Legislature and publish the plan on the Department's website.

Senate: Include provision, but specify the plan consider claims in processing, adjudication, and appeals.

4. UNEMPLOYMENT INSURANCE - CALL CENTER HOURS

Assembly: Require DWD to maintain a call center to provide telephone services and support to claimants for UI benefits under Chapter 108 or under federal Pandemic Unemployment Assistance. Require the Department to operate the call center for 12 hours per day, 7 days per week, until the number of weekly claims in processing is comparable to those in January, 2020, and February 2020, as determined by DWD.

Senate: Include provision. Require call center hours to continue as specified until claims in processing, adjudication, and appeals are comparable to those levels in January, 2020, and February, 2020, as determined by DWD.

5. UNEMPLOYMENT INSURANCE - WORK SHARE

Assembly/Senate: Extend the modifications of the work-share program under 2019 Act 185 to work-share plans submitted to DWD through each week that begins while a national emergency declared by the U.S. President under 50 USC 1621 in response to the 2019 novel coronavirus remains in effect, but not for work-share plans submitted on or after July 4, 2021.

Work-share programs, which are also called "short-term compensation programs" under federal law, are designed to provide a prorated unemployment benefit for employees of employers who voluntarily make an agreement with the state to reduce work hours instead of laying off workers. Under current law, as specified in Act 185, for work-share plans submitted on or after April 17, 2020, and before December 31, 2020: (a) work-share plans must cover at least two positions that are filled on the effective date of the work-share program, rather than at least the greater of 20 positions or 10% of employees in a work unit under the program's standard statutory provisions; (b) the maximum reduction in working hours under a work-share program may be either 60% of the normal hours per week of the employees included under a work-share plan, or any other maximum provided by federal law, whichever is greater, rather than a 50% typical reduction under state law; and (c) reduced working hours are to be apportioned equitably among employees in the work-share program. The bill would extend these provisions to plans submitted before July 4, 2021, unless a national emergency declared by the U.S. President in response to the 2019 novel coronavirus were to end

sooner.

For states with a federally approved work-share program, like Wisconsin, the CARES Act and the Continued Assistance for Unemployed Workers Act of 2020 provide 100% federally funded UI benefits through March 13, 2021.

6. UNEMPLOYMENT INSURANCE - REPORTING REQUIREMENT

Assembly: Require DWD, no later than 30 days after the effective date of the bill, to submit a report to the Joint Committee on Finance on the status of the activities described in Workforce Development summary items 3 and 4, relating to the claims backlog and hours for the call center.

Senate: No provision.

7. ALLOWANCE FOR UNEMPLOYMENT INSURANCE EXTENDED BENEFITS

Assembly: No provision.

Senate: Provide the DWD Secretary may, to the extent permitted by federal law, waive the current statutory prohibition under which a period of extended benefits for UI may not trigger "on" in Wisconsin before 13 weeks have passed since a previous extended benefits period was in effect.

Extended benefits provided under Wisconsin's UI law are designed to lengthen the duration of benefits during periods of high unemployment. Under current law, extended benefits are triggered if DWD determines that for the current week and the preceding 12 weeks, the state insured unemployment rate: (a) equals or exceeds 120% of the average of such rates for the corresponding 13-week period during each of the preceding two calendar years and equals or exceeds 5%; or (b) equals or exceeds 6%. Wisconsin triggered onto the extended benefits program, effective May 17, 2020, due to an increase in the state's unemployment rate. Wisconsin met the criteria for turning off the program effective November 7, 2020. The provision would allow an extended benefits period to resume in Wisconsin sooner than the 13 weeks currently allowed since the previous period, provided the standard "on" criteria were met.

Currently, the federal Continued Assistance for Unemployed Workers Act of 2020, enacted December 27, 2020, allows states to disregard the 13-week mandatory "off" period for weeks through December 31, 2021, provided extended benefits triggers are met. Further, the federal government will fund 100% of extended benefits payments provided to individuals through March 14, 2021, to the extent individuals are not receiving other state or federal UI assistance. Extended benefits typically require that the state covers 50% of costs.