



DEVIN LEMAHIEU

STATE SENATOR

Senate Committee on Organization Testimony on Assembly Bill 1 January 11, 2021

Chair and Members:

Thank you for hearing testimony on Assembly Bill 1 and the Senate Substitute Amendment to the Assembly Bill 1.

With expiration of many provisions of ACT 185 (the state's COVID-19 response bill passed in April), it was clear the legislature would need to renew many of the timelines essential for the state's on-going response to the pandemic as well as address emerging issues in our COVID response. Speaker Vos and I had been in conversations with the Governor to negotiate an agreed-upon bill that could be signed into law and benefit the people of Wisconsin as we safely reopen our state.

This bill before us today, Assembly Bill 1, has many very important provisions which our Senate Caucus supports. Unfortunately, the Governor has signaled his intentions to veto Assembly Bill 1 in its current form. In an effort to move our state forward with a bill that could become law, my senate Colleagues and I are proposing a Substitute Amendment which believe can garner bi-partisan support and ultimately become law.

Eighteen of the 29 provisions in the Senate Substitute Amendment are extensions of ACT 185 and were voted on unanimously by the Senate in April. We have also included 10 new provisions, 8 of which were first proposed in the Governor's bill draft.

We heard from those around the state on the need for a provision which allows for the designation of an "essential visitor" for patients in hospitals and nursing homes. Allowing a family member or loved one to visit those in need of physical and mental support is not only compassionate but often times necessary for recovery.

Additionally, we included an important provision dealing with liability protection for our state's churches, non-profits, schools, and small employers. Without protections against frivolous lawsuits, our state will not be able to fully re-open without a looming threat of being sued. There will be civics groups and organizations from all sides of the political spectrum who will testify about the importance of this protection.

Please know, the Senate Substitute Amendment 1 to Assembly Bill 1 is the product of months of discussion and negotiation. The proposal is meant to be a consensus document that will garner bi-partisan support and ultimately become law.

Thank you for your time and consideration.



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January 11, 2021

TO: Committee on Senate Organization
Senator Devin LeMahieu, Chair

FR: Kristine Hillmer, President and CEO

RE: Testimony on Assembly Bill 1

Thank you Mr. Chairman and members of the Committee on Senate Organization for hearing our testimony today.

The Wisconsin Restaurant Association represents over 7,000 restaurant locations statewide. Our organization represents all segments of the restaurant and hospitality industry; our membership includes food establishments of all types and sizes, such as seasonal drive-ins, supper clubs, diners, locally owned franchisees, fine-dining and hotels/resorts. Over 75 percent of our membership are independent restaurants. Regardless of ownership type, all restaurants are the cornerstones of their neighborhoods and communities. Restaurants not only provide great food, drink and hospitality, they support schools, teams, charities and churches with fundraising and donations. They provide meeting places to celebrate, mourn and organize, or just provide a safe, tasty meal for a busy family.

I am sure you all know the toll the COVID-19 pandemic has taken on the entire hospitality and tourism industry. The vast majority of restaurants have seen steep declines in their sales, price increases in supplies and services and in some places, severe restrictions on their ability to be open and safely serve customers. It seems like every time we turn on the news or read publications, public health officials across the country are scapegoating restaurants and other public facing businesses as places to avoid, or even worse, close in order to protect the public. What is not mentioned by public health or the media is there is no proof linking restaurants that enact COVID-19 mitigation best practices are sources of COVID-19 outbreak clusters. Our industry has become a major fall guy for this pandemic – which also makes us a major target for frivolous lawsuits over exposure to COVID-19.

Restaurants and our industry suppliers are highly regulated at the federal, state, and local level for food safety, hygiene, and sanitation — and in some parts of Wisconsin, additional government incentives are being implemented to further mitigate the spread of COVID-19. As an example - in Milwaukee, a restaurant with a robust, city approved COVID mitigation plan can be open at higher capacities than establishments without plans. This incentive program rewards establishments that are implementing best practices so they can remain open at larger capacities AND protect employees and customers.

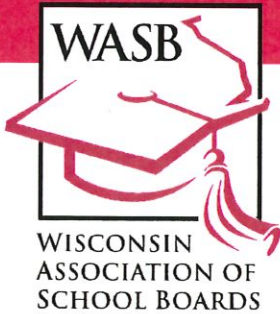
As we work to keep our doors open and serve local communities, we face unique vulnerabilities from fraudulent or frivolous lawsuits over exposure to COVID-19. The financial risk of being dragged into court is leading many restaurants to consider shutting down, or diverting resources away from rehiring staff or expanding service options for customers. Because the COVID-19 crisis is a global pandemic, and not caused or spread by any one type of business or employee, Wisconsin should enact liability protections for businesses, schools and other groups. These protections should still allow for claims based on willful misconduct by bad actors as well as for violations of food, safety and workplace laws. The restaurant

industry will not gain back customer confidence in dining out if “bad actors” are not complying with current laws. COVID-19 Liability protections can help provide certainty and predictability for restaurants as they work to regain solid footing.

Those opposed to liability protections state that if lawsuits are truly frivolous, then the restaurant will win and all will be OK. Unfortunately, the cost of litigation and seeing a lawsuit through to the end is very expensive. Many times this forces restaurants to settle the case for a lesser figure, because they cannot afford to take the case further.

The WRA also supports AB 1’s provisions to further help employers who have been forced to lay off employees due to COVID-19’s harm to the economy. The proposed changes to streamline the intended relief provided in 2019 Wisconsin Act 185 relating to benefit charging will be of great help to small businesses. Extending the non-charging period to March 12, 2021 and removing any requirements to request the charging relief will ensure that employers will not be penalized for laying off their employees due to forces beyond their control. Removing the paperwork and red tape for businesses to have their UI accounts restored will be a great relief as they work to recover.

Thank you for this opportunity and I entertain any questions you may have.



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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Senate Committee on Organization
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: January 11, 2021
RE: Testimony on LRB 21-1225 – Senate Substitute Amendment to ASSEMBLY BILL 1, relating to: state government actions to address the COVID-19 pandemic, extending the time limit for Emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

Mr. Chairman and members of the committee. I am Dan Rossmiller, Government Relations Director for the Wisconsin Association of School Boards (WASB), a voluntary membership association representing all 421 of Wisconsin's locally elected public school boards.

Thank you for the opportunity to provide testimony on the proposed substitute amendment to Assembly Bill 1.

The WASB supports the civil liability provisions of the proposed substitute amendment to Assembly Bill 1 before you today. Our members have sought both protection from liability and clarity in the law about when that protection applies. The provisions before you provide both protection and clarity. We want to thank the chair and the vice-chair of the committee and their staffs for their work on these provisions and for their inclusion in the bill.

We appreciate that these provisions do not impact the existing limited governmental immunity that public schools already have against tort claims. That existing limited immunity provides some needed relief but still leaves school districts vulnerable to claims, including claims not based on merit but brought for their settlement value.

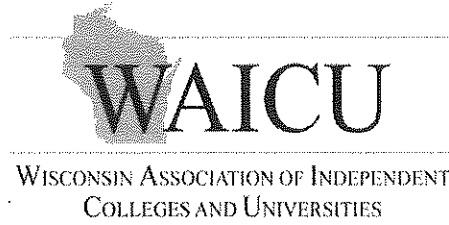
The provisions in the proposed substitute amendment to Assembly Bill 1 create an *additional* type of statutory immunity that a school district could raise as an affirmative defense if, for example, a student or a student's family member contracts COVID-19 and then files a lawsuit against the school.

The bill provides immunity protection if the entity in question, including a school, was in substantial compliance with or was consistently operating under any state statute, state rule, or state order related to COVID-19 that applied to the entity at the time of the alleged exposure.

The WASB is also appreciative that the bill before you removes a number of provision contained in the original Assembly version that we for problematic or objectionable.

For the above reasons, the WASB supports the proposal before you today.

ALVERNO COLLEGE
BELLIN COLLEGE
BELOIT COLLEGE
CARDINAL STRITCH UNIVERSITY
CARROLL UNIVERSITY
CARTHAGE COLLEGE
CONCORDIA UNIVERSITY
EDGEWOOD COLLEGE
HERZING UNIVERSITY
LAKELAND UNIVERSITY
LAWRENCE UNIVERSITY
MARIAN UNIVERSITY



WISCONSIN'S PRIVATE, NONPROFIT COLLEGES AND UNIVERSITIES
WORKING TOGETHER FOR EDUCATIONAL OPPORTUNITY

MARQUETTE UNIVERSITY
MEDICAL COLLEGE OF WISCONSIN
MILWAUKEE INSTITUTE OF ART & DESIGN
MILWAUKEE SCHOOL OF ENGINEERING
MOUNT MARY UNIVERSITY
NASHOTAH HOUSE
NORTHLAND COLLEGE
RIPON COLLEGE
ST. NORBERT COLLEGE
VITERBO UNIVERSITY
WISCONSIN LUTHERAN COLLEGE

TESTIMONY

By

Dr. Rolf Wegenke, President

Wisconsin Association of Independent Colleges and Universities (WAICU)

on

COLLEGE AND UNIVERSITY LIABILITY IN A TIME OF PANDEMIC

to

Committee on Senate Organization

January 11, 2021

Chair LeMahieu and members of the Committee, my name is Rolf Wegenke. I am President of the Wisconsin Association of Independent Colleges and Universities, or WAICU, the official organization representing Wisconsin's 23 private, nonprofit colleges and universities and their 56,000 students. I first want to express my gratitude that the legislature is considering legislation to address issues of the liability of private, nonprofit colleges and universities—all of whom are partners with the state in responding to the serious threat of the pandemic.

Because I have what are called "underlying conditions," I also want to thank the committee for its indulgence in allowing for me to testify virtually.

There are three important points I want to make with regard to this issue:

First, as already stated, Wisconsin's private, nonprofit colleges and universities are full partners with the state in addressing the health and economic consequences of a worldwide pandemic. Although we do not receive general operating support from taxpayers, we have stepped up in significant ways. A survey conducted by WAICU earlier in 2020, estimated that these colleges and universities have \$245,000,000 in unbudgeted expenses and losses related to the pandemic—and it is not over. The open-ended costs we could face without liability protections could sink a college. Liability reform is an issue of protecting a public good.

Second, WAICU-member colleges and universities are providing testing, tracking, and—we hope soon—immunizations. University of Wisconsin campuses and Wisconsin's technical colleges, as taxpayer supported public agencies, enjoy what is called "sovereign immunity." WAICU seeks neither more nor less protection than what is available to our sister institutions. Liability reform is an issue of fairness.

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January 11, 2021

Third, our request is limited to specific actions taken in response to the pandemic. We are not asking for blanket immunity. I may not have seen all the drafts, but those that I have seen explicitly state that reckless and imprudent conduct will not be covered. It is an issue of reasonableness.

From time to time states have enacted limits on liability. This is where the good Samaritan laws came from. These colleges and universities emphasize the ethical and moral imperative of helping the sick and the poor. We are counting on you and your help to help us keep on keeping on.

I also want to express my deep gratitude for dollars allocated to WAICU institutions and students through Federal CARES funding as well as the funding allocated by Governor Evers through the state's allocation of CARES funding for expenses related to testing and personal protective equipment. This funding has been critically important for institutions to manage through this crisis.

I also want to note the significant impact this pandemic has had on students. WAICU financial aid directors have shared many stories on the changing financial situation of students and families and the need for additional resources to persist to graduation. The top priority of WAICU-members is supporting these students to ensure they continue on the path to graduation.

Lastly, WAICU supports other provisions that extend the suspension of the one-week waiting period for unemployment benefits and the extension of the modification to Work-Share benefits. Both are critically important for laid off and furloughed employees. Also, extending vaccination authorization to first- and second-year pharmacy students.

Thank you for the opportunity to share this testimony with you. I would be happy to follow up on any of these issues.



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January 11, 2021

To: Members of the Senate Organization Committee
Senator Devin LeMahieu, Chair

From: Kathi Kilgore, Lobbyist

Re: Testimony on Assembly Bill 1

Thank you to the members of the Committee for allowing me to speak today. The Wisconsin Hotel & Lodging Association represents hotels, motels, resorts, inns, bed & breakfasts, and lodging executives throughout the state, many of whom are on the brink of disaster due to the devastation of the tourism industry caused by COVID-19.

WH&LA member surveys have shown throughout the summer and fall that without further aid, the state may see nearly half of our lodging properties close in the not too distant future. We are hopeful that a combination of the new PPP funding and the state's recent COVID-19 grants targeted to the lodging industry will allow us to survive. Make no mistake - the survival of the lodging industry is not just a matter of our businesses staying open, but it's also a matter of public health.

Wisconsin's hotel and lodging establishments have been serving first responders such as doctors, nurses and other frontline healthcare workers in the pandemic to do our part in making sure hospitals can stay open as the pandemic persists. We've housed law enforcement and members of the military as they work to protect our citizens from the many different threats that have faced us throughout the year. We've housed college students as the need for quarantine facilities on college campuses became apparent. And we did all of this with the safety of our staff and guests as our number one priority.

Early in the pandemic, independent hoteliers and lodging facility operators banded together with every major hotel chain at the national level to establish our industry's Safe Stay initiative, which is focused on enhanced hotel cleaning practices, social interactions, and workplace protocols to meet the new health and safety challenges and expectations presented by COVID-19. This program was spearheaded by the American Hotel & Lodging Association and their partner state associations, including ours. It's been endorsed by many different organizations and experts,

including the Infectious Diseases Society of America and Dr. Murray Cohen, former infectious diseases epidemiologist with the CDC and World Health Organization.

Lodging properties are doing all that they can to meet or exceed any municipal, state, federal and industry guidelines to protect our staff, guests, customers and the greater communities that we serve.

In many cases, it's difficult or impossible to pinpoint when and where a person is exposed to the COVID-19 virus. Since hotel and lodging properties are public-facing businesses, they are ripe for frivolous lawsuits from individuals claiming to have contracted the illness while at a property. Forcing property owners to defend their businesses from frivolous lawsuits such as these would cause more economic hardship to an industry that is already suffering terribly.

The pandemic has also shed a light on the importance of business travel to Wisconsin's economy, from meetings to conventions to trade shows - we won't see these types of events again until employers feel safe allowing their employees to travel again.

By passing liability protections into law, businesses will have the confidence that they will be protected when they feel the time is right to get their employees back on the road - and confidence is exactly what we need as we dig out of this pandemic.

Absent a targeted safe harbor for those that work to follow all safety guidelines, the fear and uncertainty from boundless liability threats will impede our state's social and economic recovery. We ask for your support of this reasonable provision in this legislation to provide limited liability protections for businesses and others from unfounded COVID-19 related lawsuits.

The WH&LA also supports the provision in AB 1 and the Senate substitute amendment to further assist employers who have been forced to lay off employees due to the COVID-19 pandemic and the economic devastation it has caused. By extending the non-charging period into March 2021 and removing the requirements for employers to request the charging relief will ensure that employers are not penalized for laying off employees for reasons that are beyond their control, and reduce truly unnecessary paperwork.

Thank you again for the opportunity to address the Committee today. On behalf of the members of the Wisconsin Hotel & Lodging Association across the state, we ask for your support of the Senate substitute amendment to AB 1. Thank you for your consideration.



Wisconsin Medical Society

TO: Senate Committee on Senate Organization
Senator Devin LeMahieu, Chair

FROM: Mark Grapentine, JD – Chief Policy and Advocacy Officer

DATE: January 11, 2021

RE: 2021 Assembly Bill 1

On behalf of more than 10,000 physician members statewide, thank you for this opportunity to share our opinions on 2021 Assembly Bill 1, which responds to the COVID-19 pandemic. Physicians have served a critical role helping take care of patients during this generational health care event – we appreciate how government policymaking leaders are prioritizing action aimed at helping Wisconsin fight the pandemic and allow our state to return to “normal” as soon as possible.

Attached to this cover memo is testimony the Society provided last week to the Assembly Committee on Health during their deliberations on AB 1. Following the full Assembly amending and passing the bill, our opinions on certain portions of the legislation remain. It is important to protect health care workers from opportunistic lawsuits, ensure seniors have access to COVID-19 under the BadgerCare program and protect patients from copays or coinsurance costs after being vaccinated. These pro-vaccination policy provisions are appreciated.

Continuing that recognition of the power of vaccinations, we urge the legislature to allow employers the flexibility to decide how best to protect their employees and customers from the SARS-CoV-2 virus and remove language interfering with employers’ expertise and decision-making. The Society also believes our state and local public health officials should continue to have available the tools they need to help fight pandemics.

Thank you again for prioritizing the fight against COVID-19 as we begin the 2021-22 biennial session. The Society is pleased to continue to be a policy resource for all policymakers on these and other initiatives.



Wisconsin Medical Society

TO: Assembly Committee on Health
Representative Joe Sanfelippo, Chair

FROM: Mark Grapentine, JD – Chief Policy and Advocacy Officer

DATE: January 5, 2021

RE: 2021 Assembly Bill 1

On behalf of more than 10,000 physician members statewide, thank you for this opportunity to testify on 2021 Assembly Bill 1, which responds to the COVID-19 pandemic. Physicians have been on the front lines of this generational event and appreciate all efforts to combat the virus and bolster health care's ability to continue the fight.

The Society **supports** the following provisions of Assembly Bill 1:

- **Civil liability exemption; exposure to the novel coronavirus SARS-CoV-2 or COVID-19** (sec. 59).
Physicians and others on the health care team have dealt with extraordinary challenges ever since COVID-19 first arrived in early 2020. Health care has continued to learn more about the virus and its transmission, incorporating new treatments and medicines as the science has developed. The Society supports civil liability protections for those health care workers who have acted appropriately based on information known at the time and believe the liability thresholds of reckless or wanton conduct or intentional misconduct are appropriate lines to draw for that immunity. This will protect the public while preventing opportunistic and unfair litigation.
- **Insurance coverage of COVID-19 testing and vaccination with no cost sharing** (sec. 56).
The Society supports ensuring that vaccination costs are not subject to insurance copays or coinsurance, similar to already-enacted provisions related to COVID-19 testing costs.
- **Coverage of vaccinations under SeniorCare** (sec. 9119, p. 50, line 11).
With seniors disproportionately affected by the COVID-19 pandemic, it makes good policy sense to ensure the state's SeniorCare program covers and reimburses COVID-19 vaccinations.

The Society **opposes** the following provisions of Assembly Bill 1:

- **Mandatory vaccination for employment prohibited** (sec. 15).
Employers strive to create a safe working environment for employees and members of the public who interact at that workplace. Health care facilities face special challenges in treating patients while minimizing the potential spread of disease. The current pandemic involves an extremely virulent SARS-CoV-2 virus; health care employers should continue to have the option to decide whether employee and public safety necessitates any vaccine requirement.

- **Government powers to order vaccinations** (secs. 27 and 29).
One lesson we have learned from the current pandemic is the need to bolster our public health infrastructure. Vaccinations are safe, effective and are often the best tool to combat harmful disease – and in some cases can eliminate those maladies nearly completely. The Society supports current law allowing the Department of Health Services secretary and local public health officials to require vaccinations when necessary to protect the public health.

Thank you again for this opportunity to provide the Society's feedback on various elements of Assembly Bill 1 and prioritizing the fight against COVID-19 as we begin the 2021-22 biennial session. Please feel free to contact the Society with any questions on this or other health care issues.



WISCONSIN MANUFACTURERS & COMMERCE

To: Senate Committee on Organization

From: Corydon Fish, General Counsel

Date: January 11, 2021

Re: **Testimony in Support of Section 59 of 2021 Assembly Bill 1/Section 42 of Senate Substitute Amendment 1**

Thank you Chair LeMahieu and members of the Senate Committee on Finance for taking the time to hear Wisconsin Manufacturers and Commerce's (WMC) testimony in favor of Section 59 in 2021 Assembly Bill 1 (AB 1). WMC would also like to thank Senator Kapenga, Representative Born and Representative Knodl for championing the issue of COVID-19 liability reform.

WMC is the state chamber of commerce, manufacturers association, safety council, and largest general business association in Wisconsin. We were founded over 100 years ago, and are proud to represent approximately 4,000 member companies of all sizes, and from every sector of our economy. Our mission is to make Wisconsin the most competitive state in the nation in which to do business.

The legislature and governor can work together to help make Wisconsin's business climate more competitive by providing job creators with as much certainty as they can during these uncertain times. Our members have consistently told us that the single best way the legislature and governor can work together to provide this certainty is by enacting clear, meaningful, and easy-to-access COVID-19 related liability reform. It is their number one legislative priority.

This bill contains just such a reform in Section 59 (Section 42 of Senate Substitute Amendment 1). WMC strongly supports this provision which creates a liability shield protecting responsible entities from predatory trial attorneys. This provision will help Wisconsin communities begin their return to normalcy by protecting all entities—including businesses, schools, universities, non-profits, and others—from frivolous COVID-19 related lawsuits.

The provision creates a liability shield, which will shelter entities from civil liability due to an alleged injury or death from COVID-19 in the courses of or through the performance of the entity's functions or services. The entity loses the immunity if the entity acted in a reckless, wonton, or intentional manner to spread COVID-19. In other words, if the entity is a "bad actor" it would not receive the immunity. This immunity is retroactive to March 1, 2020 (approximately the beginning of community spread in Wisconsin). This provision is easy for small businesses to understand and obtain, provided the business acts in a responsible manner.

The enactment of a liability shield is serious business for the business community. In the midst of one of the worst economic downturns and public health crises in our nation's history, the business community is now faced with an epidemic of largely frivolous lawsuits. Trial lawyer advertisements soliciting plaintiffs for COVID-19 related mass tort lawsuits are up (\$67 million dollars in the first five months of 2020).¹ Several waves of lawsuits have already hit the business community, with over 7,000 lawsuits already filed (the vast majority in state courts).² While initial suits were focused on cruise lines, and producers of certain products such as hand sanitizer, and nursing homes, the scope of suits have broadened to all kinds of manufacturers and commercial businesses.³ Risk analysis firms believe lawsuits targeting job creators could cost tens of billions of dollars.⁴ While many of these lawsuits will ultimately be unsuccessful because of their frivolous nature, this deluge of lawsuits will be prohibitively costly for many businesses to defend in during the dual pandemic and economic crisis. Many businesses will be forced to settle these meritless suits, causing further strain on their budgets and our economy, rather than pay the six and seven figure legal fees necessary to defend against them. Responsible businesses need to be protected from these harmful—possibly bankruptcy inducing—lawsuits.

There is significant support across the political and policy spectrum for this reform. The broader business community has called on the legislature and governor on several occasions over the past nine months in support of this reform. Most recently, in a letter (attached) on December 10, 2020 where over seventy organizations representing tens of thousands of businesses across the state wrote to Governor Evers and the legislature urging bipartisan action on the issue.

Further, polling has shown that creating a liability shield for businesses is a major issue for small businesses and the general public. According to a US Chamber of Commerce poll, 84-percent of respondents believe that essential businesses, and 82-percent of respondents believe that all businesses, should be protected from lawsuits related to the coronavirus.⁵ Similarly, according to an NFIB survey, nearly 70-percent of small business owners are concerned about increases in liability claims.⁶

Wisconsin would be in good company if the legislature passed and governor enacted this provision. At least 21 states have enacted some sort of COVID-19 related liability shield. At least four states with split government—North Carolina, Louisiana, Nevada, and Kansas—have enacted a liability shield similar to the one proposed in AB 1 in a bipartisan manner.

¹ <https://legalnewsline.com/stories/528905168-lawyer-ads-in-2020-are-talking-less-about-roundup-more-about-coronavirus>; <https://www.reuters.com/article/lawyers-advertising/mass-tort-tv-advertising-jumps-amid-coronavirus-pandemic-idUSL1N2ED0FQ>

² <https://www.huntonak.com/en/covid-19-tracker.html>.

³ <https://www.reuters.com/article/us-health-coronavirus-usa-lawsuits/take-home-lawsuits-over-covid-infections-could-be-costly-for-u-s-employers-idUSKBN26J1H8>

⁴ *Id.* This estimate only applies to personal injury lawsuits using the “take home theory.” The total cost of COVID-19 litigation is likely to be substantially higher.

⁵ <https://instituteforlegalreform.com/ilr-national-survey-covid-19-liability/>

⁶ <https://go.heartlandpaymentsystems.com/nfib>

WMC respectfully urges the Senate Committee on Organization to stand with businesses, schools, universities, and non-profits—the pillars of their communities—and support Section 59 of AB 1. Thank you again Chair LeMahieu and committee members for the opportunity to submit this testimony today.

DATE: January 11, 2021
TO: Senate Committee Members on Finance
FROM: Jamie Nutter, Agency Administrator Cooperative Education Service Agency #3
RE: School Liability

My name is Jamie Nutter. I serve as the agency administrator for Cooperative Service Agency Region 3, which represents 31 districts in Southwest Wisconsin. My testimony will address liability concerns by school districts regarding pandemics.

First, I will state the obvious. Our school districts have done an excellent job of navigating the safety concerns of COVID-19. As a result of their collaboration with school leaders, community leaders, and health department officials and though they have been required to make decisions about positive cases and contact tracing, actual transmission among adults and students in schools is very low.

Anyone associated with education understands that to facilitate the highest levels of learning, the basic needs of students must be met first. Safety is a basic need. Since the beginning of March, the primary focus of our school districts has mandated it be on this basic need to ensure they have done their due diligence to stop the spread of COVID-19. Though we have adapted well to virtual instruction, many of our students and educators will agree that this mode of instruction is not as effective as having our students face-to-face in school buildings. As a result, it will be critical once vaccines are more mainstreamed that we efficiently transition back to face-to-face instruction to reach those highest levels of learning for more students.

As we transition back to face-to-face, there are many considerations and barriers that must be overcome. One key barrier for school boards and district administrators will be overcoming the fear of being sued. Though I am confident school districts will continue to follow protocols to keep students safe, without liability protections from COVID, they will continue to focus resources on avoiding being sued versus implementing practices centered on learning.

As vaccines become more mainstreamed more parents are hopeful our schools will begin to shift back to learning environments that provide the interaction needed that meet the cognitive, social, emotional, and physical needs of our students. Some would even be willing to sign waivers if that meant schools would get back to "normal." Anyone will tell you that waivers provide little protection. In addition, there are other considerations that school district leaders, attorneys, and liability providers fear.

We do not have precedent of schools responding to a pandemic of this magnitude. To be protected by liability insurance, they must comply with regulations. We know there are inconsistencies in recommendations, so each district provides practices uniquely. As a result, leaders are uncertain if they have immunity as litigation can be creative and consider perspectives that have not provided precedence. In addition, school districts have several employees, so leaders must focus their energy ensuring they are all following the policies because districts are at risk if their own policies are misinterpreted. In short, districts have been put in positions to not only keep students and employees safe by following state and national recommendations but are even more at risk if their own policies do not get followed exactly as written.

In summary, the conversations have started about how to safely transition back and help the students who did not benefit from learning in socially distanced and virtual environments. There are going to be many barriers leaders must consider and overcome. They must be able to create plans looking forward without having to metaphorically look over their shoulders at the same time. Please know if school leaders are granted levels of immunity as our state leaders see fit, they will not simply ignore safety. They will continue to be responsible, but any liability protections provided through statute will remove one of the barriers that will keep us from safely transitioning back to environments we know better meets the needs of our students. Thank you for your consideration.



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To: Senate Committee on Senate Organization
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities
Date: January 11, 2021
Re: AB 1, Response to COVID-19 Pandemic

The League of Wisconsin Municipalities opposes the amended version of AB 1 that passed out of the Assembly last week because of the severe limitations it imposes on local health officers. The bill limits the duration of any action taken by a local health officer to control the spread of COVID-19 to two business days unless an extension is approved by a two-thirds vote of the local governing body, and each such extension may not exceed 14 days. It also specifies that this approval procedure does not confer authority to close or restrict capacity in businesses or places of worship.

Currently, local health officers have the statutory authority to do what is reasonable and necessary for the prevention and suppression of disease and forbid public gatherings when necessary to control outbreaks or epidemics among other public health powers. In addition, local health officers must take all measures necessary to prevent, suppress, and control communicable diseases and report those measures to the appropriate governing body along with the progress of the communicable disease.

Although most municipalities are served by county health departments pursuant to Wis. Stat. sec. 251.02, 16 municipalities operate their own health department or partner with the county or other municipalities: Appleton, De Pere, Eau Claire, Franklin, Greenfield, Hales Corners, Madison, Menasha, Milwaukee, North Shore, Oak Creek, South Milwaukee/St. Francis, Wauwatosa, West Allis, Racine, and Watertown.)

The Senate Substitute amendment to AB 1 introduced this morning addresses our concerns about the version of AB 1 the Assembly passed. The substitute amendment makes no changes to current law regarding the powers of local health officers to take action to prevent and suppress the spread of the COVID 19 virus.

We urge the committee to recommend passage of the substitute amendment and not the version of AB 1 passed by the Assembly. Thanks for considering our comments.

December 10, 2020

Governor Evers and Wisconsin State Legislature:

As the COVID-19 pandemic continues, the threat of predatory lawsuits, seeking possibly bankruptcy causing damages, for alleged COVID-19 exposures is a major concern of small businesses and many other entities, even if they “did everything right” by complying with public health orders and taking all necessary precautions.

We appreciate the past efforts of the legislature and Governor Evers at the beginning of the pandemic to protect healthcare workers and those businesses that donate personal protective equipment. We also are happy to see Speaker Vos proposing liability reforms, as outlined in a December 1 Legislative Fiscal Bureau memorandum. That memo contains some encouraging concepts and we are interested in providing input on the statutory language to ensure that struggling Wisconsin businesses, non-profits, schools, and homeowners receive meaningful—and easy to comply with—protections from predatory lawsuits, provided they take adequate precautions to keep their premises safe.

In the same vein, the undersigned organizations encourage the legislature to pass, and governor to sign, meaningful liability reforms based off of LRB-6434/2 authored by Senator Kapenga, Representative Born, and Representative Knodl. The legislation would create a safe harbor for all property owners/occupants who are good actors against frivolous lawsuits alleging a plaintiff was infected with COVID-19 at a specific premises. *The bill is not business community specific and would protect homeowners, non-profits, schools, universities, and any other premises including outdoor events and festivals.* The safe harbor would not protect bad actors. An entity would lose the liability exemption if they knowingly violated a public health order or spread COVID-19 by acting in a reckless, wanton, or intentional manner.

Wisconsin is not alone in enacting premises liability protections. At least 13 other states have also done so, including neighboring states Iowa and Michigan. The legislature and governor need to act quickly to protect businesses, schools, non-profits, and individuals doing the right thing.

The signatories respectfully urge the legislature and governor to work together to pass and enact substantive liability protections like LRB-6434/2, which will help rebuild Wisconsin’s communities and economy.

Sincerely,

Wisconsin Manufacturers & Commerce
National Federation of Independent Business – Wisconsin
Wisconsin Civil Justice Council
Wisconsin Association of Independent Colleges and Universities
Wisconsin Technology Council

Wisconsin Association of School Boards
Wisconsin Insurance Alliance
Wisconsin Builders Association
Wisconsin Bankers Association
Wisconsin Property Taxpayers, Inc.
Midwest Food Products Association
Wisconsin Restaurant Association
Fox Cities Chamber of Commerce
Marinette Menominee Area Chamber of Commerce
Greater Wausau Chamber of Commerce
Stoughton Chamber of Commerce
Portage County Business Council, Inc.
Metropolitan Milwaukee Association of Commerce
Associated Builders and Contractors of Wisconsin
Marshfield Area Chamber of Commerce and Industry
The Wisconsin Credit Union League
Burlington Chamber of Commerce
Wisconsin Institute of CPAs
Greater Green Bay Chamber of Commerce
Bowling Centers Association of Wisconsin
Waukesha County Business Alliance
Wisconsin Dairy Business Association
Wisconsin Defense Council
American Property Casualty Insurance Association
Muskego Area Chamber of Commerce
Wisconsin Petroleum Marketers and Convenience Store Association
Commercial Association of REALTORS Wisconsin
Wisconsin Agri-Business Association
Venture Dairy Cooperative
Eau Claire Area Chamber of Commerce
Racine Area Manufacturers and Commerce
Beaver Dam Area Chamber of Commerce
Oshkosh Chamber of Commerce
Wisconsin Cheese Makers Association
Wisconsin Convention and Visitor Bureaus
Mosinee Area Chamber of Commerce
Wisconsin Hotel & Lodging Association
Wisconsin Grocers Association
Wisconsin Farm Bureau Federation
Independent Insurance Agents of Wisconsin
Wisconsin Dairy Alliance
The Plumbing and Mechanical Contractors Association of Milwaukee
The Sheetmetal and Air Conditioning Contractors Association of Milwaukee

Wisconsin REALTORS Association
Wisconsin Motor Carriers Association
Wisconsin Transportation Builders Association
Professional Insurance Agents of Wisconsin, Inc.
West Bend Area Chamber of Commerce
Wisconsin Association of Textile Services
Wisconsin Amusement and Music Operators
Wisconsin Automatic Merchandising Council
Tool, Die & Machining Association of Wisconsin
Associated General Contractors
Independent Business Association of Wisconsin
Wisconsin Veterinary Medical Association
Wisconsin Potato & Vegetable Growers Association
Wisconsin Soybean Association
Wisconsin State Cranberry Growers Association
Wisconsin Cattlemen Association
Wisconsin Association of Professional Agricultural Consultants
Germantown Area Chamber of Commerce
Sun Prairie Chamber of Commerce
Hartford Area Chamber of Commerce
Whitewater Area Chamber of Commerce & Tourism
Oregon Area Chamber of Commerce
Menominee Area Chamber of Commerce & Visitor Center
Envision Greater Fond du Lac, Inc.
Alliance of Wisconsin Retailers



January 11, 2021

Senate Majority Leader Devin LeMahieu, and Members of the Senate Committee on
Senate Organization
Room 211 South
State Capitol
PO Box 7882
Madison, WI 53707

RE: Wisconsin Nurses Association Response to on AB 1 - The COVID-19 Pandemic Relief Package.

Dear Majority Leader and Chairperson LeMahieu and Members of the Senate Committee on Senate Organization,

On behalf of the Wisconsin Nurses Association (WNA) I want to thank you for holding a public hearing on AB 1. The WNA is the organization representing the interests of Wisconsin's 90,000 registered nurses. WNA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. WNA is at the forefront of improving the quality of health care for all. We have been actively engaged in supporting the education, practice, safety, and health of Wisconsin's nurses throughout this COVID-19 public health emergency.

WNA's Public Policy Council members have reviewed the language in AB 1 submitted by Speaker Vos. WNA would like to share our nursing perspective on the benefits of AB 1 and our two concerns. WNA supports the following concepts found in AB 1:

1. Creation of statutes that allow for the issuance of temporary licenses for out of state nurses and other members of the health care team. This supports patient access to quality care which is needed for acute, long-term, home health and public health services. Wisconsin needs nurses to administer the vaccinations and without assistance from out of state nurses Wisconsin will not achieve its immunization goals. The current emergency orders have increased the nursing workforce by 94. Registered Nurses = 68, Licensed Practical Nurses = 5, Nurse Midwife = 1, and Advanced Practice Nurse Prescribers = 21. (Source: DSPS, 12/2/2020.
<https://dsp.wi.gov/Documents/BoardCouncils/NUR/20201210NUR%20Additional%20Materials.pdf>

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<http://www.wisconsinnurses.org>

2. Expand the type of health care providers and settings where individuals can be vaccinated for COVID-19 including dentists and pharmacist-related personnel and student is very innovative.
3. Allowing out-of-state Nurse Anesthetists practicing in Wisconsin to be covered under the Injured Patients and Families Compensation Fund will support those areas in Wisconsin where there is a lack of anesthesia providers.
4. Insurance coverage of COVID -19 vaccination and testing without a copay will improve access, cost and quality of the healthcare related issues to this highly communicable disease.
5. Coverage of vaccine administration for Wisconsin's older adults is very important to maintaining the health of this vulnerable population.

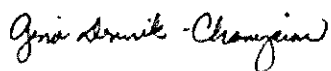
WNA would like to share our two concerns regarding the current language in AB 1.

1. Continue to only utilize the current statute that allow for vaccination exemption which are, medial, religious or personal conviction. WNA supports of the concepts and principles related to immunizing as many individuals as possible so as to promoting a healthy Wisconsin workforce. The impact of the COVID-19 pandemic has created a yo-yo effect for Wisconsin businesses and the individuals they hire. Employers continue to experience workforce shortages due to employees contracting or being exposed to COVID. This is very evident when we see hospital capacity reduced because of nurses contracting and being exposed to COVID.
2. Support the role of Wisconsin's Local Public Health Officers by recognizing their expertise regarding management of public health emergencies. The Public Health Officer should be viewed as a team member of the local boards and is acting in the best interest of the population.

Thank you again Majority Leader and Chair LeMahieu for holding this public hearing and to the Committee Members for reviewing our comments. WNA views this legislation as supportive to access to care and health services for Wisconsinites.

Please feel free to contact me if you have any questions or concerns.

Sincerely



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Senate Committee on Senate Organization, thank you for providing the Wisconsin Dental Association the ability to submit testimony on Assembly Bill 1. This comprehensive legislation is an integral step towards effectively combating the COVID-19 pandemic in Wisconsin. We are appreciative that the legislature has made dentists a priority in this legislation. If signed into law, Wisconsin's 3,500 licensed community dentists will be able to immediately have an impact on the massive vaccination efforts our state is now undertaking.

Dentists are an integral part of delivering primary health care services to Wisconsinites. As Wisconsin moves to a more integrated health care delivery system, utilizing dentists to screen for basic health conditions and provide preventive services such as vaccines makes increasingly more sense. Wisconsin dentists are Doctors of Dental Medicine or Doctors of Dental Surgery, and are well-educated to administer a broad range of vaccines.

Dentists are already able to provide vaccines in a number of other states, including Illinois and Minnesota. These states both allow licensed dentists to administer the flu vaccine and have successfully increased access and improved convenience for patients seeking flu shots. Recently Oregon signed into law a bill that affords dentists the ability to prescribe and administer vaccines.

Over the last few weeks, we have heard from many dentists who want to help their communities but are unable to. Many other states are issuing a call to arms, bringing health care providers of all backgrounds to the front line to assist. States that are reducing barriers for health care providers will be able to vaccinate willing populations more expeditiously, getting their state back to normal quicker. It is well documented that Wisconsin is near last in the Midwest in vaccination efforts. We should be doing all that we can to improve upon this. The Wisconsin Dental Association is grateful that the legislature has made this issue a priority.

In lieu of the COVID-19 pandemic, other states have expanded the role of various health care providers to allow them to assist with the COVID-19 vaccination efforts. For example, as recently as December 13th, New York is now allowing dentistry students to administer COVID and flu vaccines. While Wisconsin has yet to do so thus far, there is still plenty of time to have a major impact.

To administer COVID-19 and flu vaccines under the bill, a dentist must complete 12 hours of training on vaccine storage, protocols, administration technique, emergency procedures, and record-keeping. The Wisconsin Dental Association and its members recognize and appreciate the importance of proper education and training and fully support these requirements.

Wisconsin leads the way in our approach to health care. It is time to take that creativity and ensure that oral health is better integrated with physical and behavioral health. In fact, many Wisconsinites see their dentists more often than other medical providers; it makes increasingly more sense to view dentists as a primary care provider. This bill takes an important step towards those integration efforts. Wisconsin dentists are ready and willing to serve their communities in this additional way to continue to further the health of our whole state and combat the COVID-19 pandemic.

Respectfully submitted:

WDA President Dr. Paula Crum (Green Bay)
WDA President-Elect Dr. Clifford Hartmann (New Berlin)
WDA Immediate Past-President Dr. Thomas Raimann (Milwaukee)
WDA Legislative Advocacy Committee Chairman Dr. Patrick Tepe (Middleton)
Dr. Kelly West Region 4 Trustee (Grafton)
Dr. Laura Lux Region 4 Trustee (Lake Geneva)
Dr. Tamim Sifri Region 5 Trustee (Madison)
Dr. Jon Nelson Region 1 Trustee (Superior)
Dr. Eric Childs Region 2 Trustee (Green Bay)
Dr. Chris Hansen Region 2 Trustee (Two Rivers)
Dr. Angela Lueck Region 3 Trustee (Milwaukee)
Dr. Brian Watkins Region 4 Trustee (Kenosha)
Dr. Cheska Avery-Stafford Region 3 Trustee (Milwaukee)

TO: Members, Senate Committee on Organization
FROM: Tim Lundquist, Wisconsin Association of Health Plans
RE: Senate Substitute Amendment 1 to Assembly Bill 1
DATE: January 11, 2021

Since the outset of the global pandemic, Wisconsin's community-based health plans have demonstrated that they are deeply committed to addressing COVID-19 and continuing to provide stable, high quality health insurance coverage. Health plans have acted to ensure individuals have timely access to diagnostic testing and treatment, supported vulnerable populations, provided direct financial assistance, and encouraged and expanded the use of telehealth. The Wisconsin Association of Health Plans is also proud to join the other members of the "Stop the Spread" coalition in promoting a unified message across Wisconsin of the importance of taking preventive measures to stop the spread of COVID-19.

As the Legislature considers additional action in response to COVID-19, we appreciate the opportunity to provide comment on Senate Substitute Amendment 1 (SSA 1) to 2021 Assembly Bill 1. We are committed to working with you to continue Wisconsin's fight against this pandemic. Please consider us resources and partners as we all continue to navigate this period.

SSA 1 includes multiple provisions that impact community-based health plans. Several provisions reactivate expired sections of 2019 Act 185. **At the time Act 185 was under consideration, community-based health plans expressed concern regarding provisions related to: surprise billing prohibitions; COVID-19 testing and coverage mandates; and prohibitions on prescription drug refill limitations.**

We remain concerned about these provisions, as explained below.

No Cost Sharing for COVID-19 Testing and Vaccination (Page 31, Section 39)

Even before recent federal laws were passed, Wisconsin health plans proactively committed to covering, without cost-sharing or prior authorization, COVID-19 diagnostic laboratory testing. In addition, even while treatment protocols specific to COVID-19 were being developed (and are still developing), health insurance providers covered COVID-19 treatment just like any infectious disease.

Beyond these proactive industry steps, federal law requires that COVID-19 diagnostic testing be covered without cost-sharing. This requirement also applies to all provider, telehealth, urgent care, and emergency room visits that lead to COVID-19 testing. In addition, under federal law, a COVID-19 vaccine and associated costs for vaccine administration will be covered without cost-sharing like any other preventive service.

There is no need for additional state action mandating coverage of COVID-19 testing and vaccines, as health insurance providers are already complying with existing federal requirements.

Prescription Drug Limits (Page 31, Section 40)

Health insurance providers have taken action to help ensure patients, especially high-risk patients, have needed access to prescription drugs. Health insurance providers have relaxed their policies to allow for earlier refills and many have also increased supply limits of certain

prescription drugs. Finally, health insurance providers are working to expedite formulary exception requests during the COVID-19 pandemic.

Based on their experience with this provision before its expiration, health insurance providers remain concerned that general prohibitions on refill limitations could lead to stockpiling, drug shortages, and increased costs. These outcomes could harm Wisconsin patients.

Surprise Billing (Page 31, Section 38)

Community-based health plans are committed to maintaining sufficient provider networks so patients who need care have the peace of mind they can be properly treated by in-network providers. And health insurance providers understand the desire that patients be held financially harmless if they must be seen by an out-of-network provider for COVID-19 diagnosis and/or treatment.

However, extending the requirement that insurers pay 225% of the Medicare rate for out-of-network charges sets payment rates too high. For example, under their surprise billing laws, Michigan's rate generally for uncomplicated patients receiving out-of-network services is 150% of Medicare or the median in-network rate and California uses 125% of Medicare or the average contract rate, whichever is higher. Regulators in Massachusetts set their reimbursement rate for out-of-network providers at 135% of Medicare for COVID-related services. More recently, the federal Interim Final Rule requires insurers reimburse in and out-of-network providers for the administration of the COVID vaccine at a reasonable amount compared to prevailing market rates.

If the Legislature is committed to a Medicare-based payment benchmark, we recommend lowering the payment standard to 200% of the Medicare rate. We also recommend maintaining an explicit requirement the rate be accepted as payment in-full, with no balance bills sent to the patient, regardless of whether it is the insurer or the provider who attempts to balance bill.

If you have any questions, please do not hesitate to contact me at 608-255-0921.

School District of Black Hawk

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Proudly serving the communities of Gratiot, Martintown, South Wayne, WIota and Woodford

January 10, 2021

Members of the Committee on Finance:

I appreciate the opportunity to share my perspective on a portion of the 2021 Assembly Bill 1. I will limit my comments at this time to the portion of the bill that addresses liability protections for school districts.

I believe it is of utmost importance that school districts be protected from lawsuits related to the COVID-19 pandemic. School personnel have spent hundreds of hours maneuvering through the ever-changing data and information related to the virus in an attempt to mitigate the risk of the virus for students, staff and our communities. There has been a tremendous effort to balance the risk of the virus, provide the highest quality educational opportunities and to limit other unforeseen negative outcomes.

A quality road map does not exist which we can use to navigate through this pandemic. School personnel are making decisions based on information from many sources which include the CDC, health departments, professional publications, colleagues and our communities. Decisions are being made with the intent to provide the best educational opportunities for our students while limiting the health risks for our students, staff and communities. These decisions are being made in good faith.

Districts cannot afford the costs of dealing with a lawsuit. The cost of a lawsuit is not only of the monetary nature. The cost of a lawsuit includes human resource; the time staff spend dealing with a lawsuit and related effects. The confidence that a community bestows on a district could be greatly affected by a lawsuit, which is still another cost. None of these expenses to a district should be allowed to occur when decisions are being made in good faith to serve our students to the best of our ability.

As noted in the bill I do not believe that any entity should be protected from an act that involves reckless or wanton conduct or intentional misconduct. School Districts are making decisions based on the best information available at the time with the intent to provide the best services possible for our students, staff and communities. Districts need to be able to move forward without concern of being named in a suit for a decision that was made in good faith.

Thank you for your time and allowing me to share my thoughts related to the civil liability portion of 2021 Assembly Bill 1.

Sincerely,

William Chambers, Ed.D.

Administration:

William Chambers – Superintendent and Director of Special Education | Cory Miiz - 4K-12th Principal | Roger Trame, Athletic Director

School Board

Kerry Holland, President | Dee Paulson, Vice President | Jason Figi, Clerk | Alicia Sigafus, Treasurer | Jason Herbst | Jon Satterlee | Jessica Seffrood

Main Street Alliance-WI Testimony. WI Senate Testimony. Finance Committee. AB01.
1.10.20.

Hello, my name is Shawn Phetteplace and I am the State Manager for the Main Street Alliance. We are a small business advocacy organization and recently expanded to Wisconsin. We operate in 13 states and have over 30,000 member businesses. I am here today to represent our Wisconsin membership to oppose AD01 before the Senate Finance committee. Small business owners have been slammed by this pandemic. We know the economy and public health are intricately linked. Main Street Alliance members want to support policies that actively combat COVID, not create worse public health outcomes that prolong the pandemic.

The immunity clause in this bill will prolong this pandemic. It is far too broad and would only encourage irresponsible employers to cut corners and costs at the expense of the health of their staff, customers and community. It's time for Wisconsin to help small businesses that are committed to operating as safely as possible. We need enforceable, industry-specific science-based health and safety standards and capital to survive the pandemic, remodel our spaces, and get PPE. Instead, Republican Assembly leaders are pushing corporate immunity for businesses that expose customers and workers to coronavirus. Corporate immunity via a liability shield is a giveaway to big business that hurts responsible small businesses, which are already protected under state law. We are very interested to hear the different perspectives of the Senate on this issue.

The provisions in this bill to restrict the ability of local health departments, school districts and their governing boards are unacceptable. Local control in Wisconsin has long been a staple of our thriving democracy and on-going attempts to strip local authorities of the ability to execute their responsibilities is not a conservative position.

It's heavy handed and removes the flexibility that local districts and governments need to deal with the different circumstances on the ground. What works for Rhinelander isn't the same as what works for Racine.

Third, we appreciate the provisions in the bill to continue the successful workshare program that has helped some small businesses reduce their workforce due to decreased demand as a result of the Pandemic and have some of the differences supported by unemployment insurance. Members of ours have benefited from this program. That said, we would urge the State legislature to make the needed investments to update the IT infrastructure of the Department of Workforce Development. This recent crisis exposed deeply rooted under-staffing and antiquated tech issues that have plagued the department due to long term lack of investment by the state legislature. We would urge a longer term fix in addition to the temporary provisions.

Lastly, the COVID19 vaccine provisions. Employers should be able to require an employee to be vaccinated against COVID19 as a condition of employment and should only be granted an exception if there is a medical cause. If customers aren't confident that a workplace is safe it will harm the process of re-opening. We cannot rebuild to a stronger economy and future until we have widespread vaccine utilization. Until that happens small business will continue to suffer. Furthermore, I would like to encourage all members present here, folks attending hearings and all staff in the State Capitol to please mask up. It is the easiest thing we can do to help beat back the virus.

I would like to speak to recent criticism of Gov. Evers and the rollout of the COVID19 vaccine in Wisconsin. This week the National Guard in our state administered

our 1,000,000th test. Right now, millions of doses of vaccines are being held back by the Trump Administration largely due to a lack of clear, effective federal coordination. While we laud the incredible results of Project Warp speed in the development of the multiple vaccines that needs to be matched by an effective federal response. Soon, the Biden Administration will be taking over those efforts to create a coordinated federal response. We request that this body take active steps to help support those efforts in the weeks and months to come.

The best way to do this is to fight the virus effectively and in the meantime provide the support to help small businesses survive the next few months, such as the small business grants outlined in Governor Ever's proposal. Additionally, allowing for cocktails to go, with a covered lid, as a part of meal pick up or delivery would help greatly as many small businesses have not been able to utilize their alcohol stock. That often is one of the highest profit margin products in the food service industry and would really help small business owners mitigate loss of sales due to the pandemic.

There is light at the tunnel, we just need to get there. A good place to start on longer term support would be to accept the federal dollars to expand Badgercare in the state. These dollars would save Wisconsin taxpayers over \$200 million a year and help over 100,000 folks receive health insurance, many for the first time. We have seen, especially this year, how access to health care is key to a strong economy. Expanding Badgercare is a pro business policy. Thousands of folks in Wisconsin have lost their insurance because they or their loved one lost their job. Last month the US economy lost 146,000 jobs. 10 million of our fellow Americans are still without the job they lost

during the pandemic. Taking the federal medicaid dollars is a specific health measure that you can take right now.

Instead of corporate immunity and other measures in this bill that actively attack public health, small businesses need Wisconsin legislators to support robust public health policies and small business grants to support us in the immediate term, to both get through this pandemic and to bolster our health care overall in the nearer term. Passing Badgercare expansion with a public option would be a shot in the arm to Wisconsin small business after this horrible pandemic. Let's get it done. Now, I would like to introduce Main Street Alliance member Dave Heide to give his perspective as a small business owner.

Hello, my name is Dave Heide and I am the owner, operator and executive chef of Charlie's, Liliana's and Little John's right here in Dane County. Little John's is a pay what you can restaurant in Fitchburg we just opened this past fall. The idea behind Little John's is to have customer's pay what they can afford, with some "paying it forward" in essence, paying for a stranger's meal without expecting anything in return. We are using grocery store surplus in partnership with a local grocery chain and other partners to create restaurant quality meals for those in need.

Over nine weeks we raised \$250,000 to provide 34,000 meals to needy families. With Little John's, we are offering military veterans and others a paid, six-month, culinary training program and then employing them. This is designed to help vets who

have trouble finding jobs or assimilating back into society after their service, and also to address a lack of trained chefs in the Madison area.

Every week at my existing restaurant, Liliانا's, we feed 600 Boys and Girls club families. My goal is to cut down walls, break down barriers and get rid of the red tape and just have open source available food for anyone who needs it.

We had to close Charlie's during the pandemic and have consolidated staff, resources and our supply chains to be able to weather the current storm. I am here today in opposition to AB01. What small businesses need now is direct grant support and investments in public health that will help us get back to full restaurants. The provisions of this bill, including the liability protection, restrictions on public health and local governments, and the lack of any additional aid to small businesses doesn't make sense. COVID has ravaged our state, with over 5,000 dead and over half a million with the virus. Engaging in legislative denialism does nothing to help me, my business, workers or the community I am working so hard to help.

This is the first hearing to be held of the Senate Finance committee since April. While I was rolling up my sleeves, serving up meals and making sure our community had what it needed, we have not been getting the help we need from this body. Please, focus on providing support for small business, public health, schools and the hard working local authorities who are focused on keeping people safe. I am doing my part. Now I ask you to do yours.

January 11, 2021
Senate Committee on Organization
Public Hearing on Assembly Bill 1

Testimony from School Choice Wisconsin Action:

School Choice Wisconsin Action (SCWA) supports the provisions in 2021 Assembly Bill 1 establishing immunity from civil liability for COVID-19 and the extensions of timelines and waivers for the Department of Public Instruction (DPI) for the 2020-21 school year.

To be clear, AB 1 does not establish immunity for intentional, wanton or reckless conduct. Nor does it relieve schools of their obligations under existing statutes and rules related to the health and safety of students and the care of their buildings.

Many private schools across the state have been providing in-person or hybrid instruction since the 2020 school year began, in addition to an all-virtual option to families who desire it. These schools are continuously in contact with local health officials to implement CDC and other continually evolving protocols that prioritize the health and safety of students and teachers. CDC guidance changes frequently as scientists learn more about COVID-19 and local health department requirements vary from city to city and county to county, and while this creates tremendous challenges and uncertainty, private schools remain dedicated to providing safe in-person instruction to meet their students' needs. But unlike public school districts, which are immune from negligence lawsuits and benefit from damage caps under state law, they could face a lawsuit and unlimited damages if a student falls ill with COVID-19.

While a plaintiff would have the difficult task of proving COVID-19 was contracted at school, the expense of defending a lawsuit – win or lose – could be devastating to a private school. Litigation expenses can be as damaging to a school's budget as a finding of negligence. A school's financial exposure is significant since existing insurance policies may exclude coverage for such negligence lawsuits and new ones will certainly address coverage for COVID-19 claims. And these schools have already expended significant dollars on air purifying systems, plexiglass, technology, including laptops and tablets, additional staff and other previously unneeded supplies. All of this at a time when the charitable donations they rely on are uncertain due to our country's current economic situation.

-Continued-

We respectfully urge lawmakers to support this immunity provision so that schools, whose top priority is to provide a safe learning environment for students and teachers and who have acted responsibly to do so, can continue without the threat of lawsuits.

The extensions for the Department of Public Instruction originate from Act 185 of the previous legislative session. SCWA and DPI worked on a package to allow for flexibility around certain requirements of the Parental Choice Programs related to disruptions from COVID. However, those provisions only applied to the 2019-20 school year. AB1 extends those same parameters to the 2020-21 school year as COVID conditions are still impacting schools. No other modifications are being made from the original legislation.

We respectfully request the legislature to support extending those provisions.

Jim Bender
School Choice Wisconsin Action

Good afternoon, Senators. My name is Jamie Bernander, and I am here to ask you to continue the work begun by your colleagues in the Assembly and vote to approve Assembly Bill 1 as is.

There are a number of provisions in this bill that are important to my family and the families that I am here on behalf of. I represent Wisconsin United for Freedom, a non-profit committed to protecting health freedom for Wisconsin citizens with an emphasis on the preservation of vaccine choice.

We all understand that the SARS-CoV2 vaccination is still considered experimental due to its fast-tracked nature, and just as we are still learning the nuances of the virus itself, we also have no long-term understanding of the new vaccine. We do not know the vaccine's duration of protection or even its effectiveness against transmission of the virus. And, most importantly, we do not have any data regarding adverse reactions that require longer follow-up to be detected.

We DO know that both the Moderna and Pfizer vaccines have had reported adverse reactions. These reactions have included anaphylaxis, Bell's Palsy, and at least one death.

As a mother of three young children and one on the way, I am also concerned with the lack of clinical safety data for pregnant and nursing women and how this vaccine may impact fertility should we allow DHS to retain its emergency vaccination powers. Safety should not be sacrificed in the name of efficacy. We fear the virus, we fear its long-term implications, we lament the narratives of the "long-haulers," and yet we do not realize, it is the same situation for the vaccine. We simply do not know much. And therefore, we must protect Wisconsin citizens from medical coercion where there are known – and unknown – risks. Luckily, for those who seek greater access to the available vaccines, there are provisions in AB-1 that focus on just that. It's a win-win.

Therefore, choice is paramount, and thus we need the protective provisions in AB-1 that both prohibit employers from requiring the COVID vaccination and prohibit DHS and health officers from mandating the vaccine.

Additionally, as a restaurant owner trying to navigate and survive the impacts of the virus, I greatly appreciate and recognize the need for the civil liability exemption related to COVID-19 claims. After 16 years of business and as a result of the pandemic and directed response, our tourism-based restaurant was forced to close this winter. We do plan to reopen this spring – and we are praying that people will again feel comfortable sharing meals with friends and family, supporting local business, and living life understanding that risk follows us everywhere we go when we leave our homes. But there is a hope.

As a Christian, the one place of refuge this year has been church. People need hope right now – we have taken away their jobs, their businesses, connection with their loved ones, potentially their ability to choose or refuse a vaccine, and the virus itself has wreaked havoc on many Wisconsin lives. Our places of worship are ever-more essential, as only God can provide us with the hope that so many Wisconsinites are now desperately seeking. As so stated in AB-1, we must prohibit authority to forbid the closure of gathering in our churches. This is a no-brainer.

There is more work to be done, and likely additional legislation will need to be drafted relative to this pandemic. I encourage you to do this. But let's start here. Let's start by passing Assembly Bill 1. It aims to protect Wisconsin citizens from medical tyranny, from public health overreach, protects our freedom to worship, protects suffering Wisconsin businesses, and indeed increases access to the vaccine and coverage thereof for those desiring it. AB-1 also addresses the issue of unemployment backlog and protects safe visitation to our elderly who are dying from isolation in our nursing homes. There is something for everyone in this bill. Please stand up for the rights of ALL Wisconsin citizens today. Thank you for your time.



**Wisconsin Association for Justice
Testimony on AB-1
January 11, 2021
Before the Senate Committee on Finance**

JAY A. URBAN
PRESIDENT, MILWAUKEE

KRISTIN M. CAFFERTY
PRESIDENT-ELECT, RACINE

KEVIN R. MARTIN
VICE-PRESIDENT, OAK CREEK

AMY M. RISSEUW
SECRETARY, APPLETON

ALLAN M. FOECKLER
TREASURER, BROOKFIELD

BEVERLY WICKSTROM
PAST-PRESIDENT, EAU CLAIRE

BRYAN M. ROESSLER
EXECUTIVE DIRECTOR

Chairman Marklein and members of the committee, thank you for the opportunity to testify today. It is always an honor to appear before this committee.

My name is Jay A. Urban, I practice at the law firm of Urban & Taylor, S.C. in Milwaukee. I am the current President of the Wisconsin Association for Justice (WAJ). Our organization was founded to support the rights of citizens and businesses to have their legal disputes fairly adjudicated by an impartial justice system. With that in mind, I wanted to use my testimony today to address the provisions in AB-1 dealing with legal immunity.

The question before the Legislature is quite simple: should it enact policies that encourage responsible and safe behavior or policies that discourage it?

In normal times, our association believes strongly that big government should not pick winners and losers when it comes to legal disputes. The Founders believed this was the role for an independent judiciary and took special care to preserve a role for a jury of one's peers. This is the heart of limited and restrained government. This is why our organization has consistently advocated against various immunity proposals over the years.

Of course, these are not normal times. In the midst of a global pandemic, WAJ believes that citizens and businesses that follow the rules and take reasonable steps to ensure the health and safety of their employees and customers should not have to fear litigation.

Unfortunately, AB-1 takes things a dangerous step further. As currently proposed, this legislation will actually discourage citizens and businesses from taking basic safety precautions. Further, it protects bad actors that put their employees and customers in danger—specifically carving out protection for those who refuse to abide by public health orders limiting capacity and encouraging safe practices. This is more aggressive than anything that has been proposed and passed in other states. We therefore ask that the immunity language be removed before advancing this legislation any further.

We understand that the fear of litigation is real. Many of our own members are small business owners themselves. If there was evidence of lawsuits being filed over people being exposed to COVID-19 that were a legitimate source of instability for businesses in Wisconsin, we would be here arguing for a solution that worked for all sides. The reality, however, is that this simply not happening in Wisconsin or anywhere else.

The most recent data from the Department of Health Services shows that over half a million Wisconsinites have been diagnosed with COVID-19. Of those, over 5,000 have died. And yet, to our knowledge, not a single workplace safety lawsuit has been filed in Wisconsin. If the actual prevalence of litigation matched the fears of litigation described by some today, you would see hundreds or even thousands of lawsuits already filed. And yet, they have not been.

The simple truth is that our system's current safeguards, which require plaintiffs to prove that a specific exposure led to infection are more than sufficient to protect businesses from fear—if they are taking steps to keep people safe.

Nearly all people have multiple exposure points in their daily life, rendering it nearly impossible to meet this burden.

While there is no real need to provide legal immunity, there is a real need to keep Wisconsinites safe. Safety is: encouraging folks to get vaccinated for the common flu and COVID-19. Safety is not: encouraging folks to ignore public health orders. Unfortunately, as currently written, this legislation does not encourage safety, and will only work to further delay our restaurants, bars and small businesses from getting fully opened again.

There are many things in this bill that will provide relief and comfort to individuals and businesses throughout Wisconsin. As the legislature considers the necessary steps forward from this pandemic, we should not take a step backwards by encouraging dangerous behavior as we enter what we all hope are the final months.

Thank you again for your time today. I'm happy to answer any questions.



OFFICE OF
EDUCATIONAL
OPPORTUNITY

1/11/2021

Senate Finance Committee
2 E. Main Street
Madison, WI 53703

Written Testimony submitted by Vanessa M. Moran
Office of Educational Opportunity

Good morning. I just want to take a moment to reiterate what so many others have said before me. Thank you. Thank you for taking the time to listen. Thank you for taking our testimony into consideration. And thank you for coming to, what will ultimately be, a series of difficult decisions.

My name is Vanessa Moran and I am the newly appointed Director of the Office of Educational Opportunity for UW System Administration. It has been a mere 9 weeks, but even in that short amount of time, I have been able to apply my educational background to guide decisions as they relate to policy, procedure, and yes, even politics.

It is important for you to know that prior to serving in this role, I was a 1st, 3rd, and 4th grade teacher in the district where I reside; Howard-Suamico, which is a suburb of Green Bay. After attaining my Principal License as well as my License as a Director of Curriculum and Instruction, I became a Dean of Students, then Associate Principal, and last year, a building Principal. And now, in addition to my role as the OEO Director, I am also an elected member of the Howard-Suamico School District School Board. But most importantly of all, I am the mother of two school-aged children. I have seen how COVID has taken a toll on our students, our teachers, our families, our communities; and have had to weigh those impacts in each of my various roles - as the mother of my own children, as a principal in the school district I served, as a School Board member in the community I represent, and as the director of the OEO, as the authorizing agent of the systems I oversee.

There are provisions in this bill that will deeply impact each of these various entities.

At the time of the mandated school closures last Spring, I was serving two different school districts in two vastly different roles. In one, I served as a Principal. In the other, as a School Board member. While they were both roles in which I was deeply involved in how to face navigating providing continued learning for our students, both districts took significantly different approaches. Different means to attain the same ends. The same applies now. No single district has taken the same path towards reopening. Some have continued to stay closed. Some have enacted a hybrid model. Yet others have reopened their doors.

Not one of those decisions has been entered into lightly. There are a plethora of factors that have had to be taken into consideration. There are unique circumstances. There are different needs. There are community considerations. There are factors outside of a district's control. There are fiscal constraints. There are varying staffing needs.

Not one school district across the state directly mirrors another one. Why do we expect that now? We are asking that local control, as it has been, continues to be the guiding principle. We need to have the freedom and flexibility to make decisions that best meet the needs of our individual communities. But "best" doesn't mean that the decisions we make will be viewed as the right ones by everyone. They won't make everyone happy. They won't meet everyone's needs. They won't be perfect. That fact weighed very heavily on me last Spring as I led my staff, my students, and my families through an unprecedented time in education. Were everyone's needs met? Absolutely not. For both students and staff alike, I failed some no matter how hard I tried, no matter what efforts were employed. But decisions had to be made. Strong leadership had to be demonstrated. And I rested in knowing that both myself and my team took those steps we deemed "best."

Many schools, public and private, have gone to great lengths to provide safe learning environments for in-person instruction. Just today, my son and daughter walked into their school with all their peers for the first time since last March. I have no words to adequately describe the excitement on their faces. But even that joy comes at a price, knowing that there are many teachers who have fears about it being unsafe. Friends and former colleagues of mine who have underlying medical conditions. Friends and former colleagues who have elderly or immunocompromised family members. Friends and former colleagues who have had to say goodbye to loved ones due to COVID. How do we ask them to choose their life over their love? Their love for teaching. Their love for students. It's not an easy decision to enter into, but it is one we, as a Board, and as a district, have deemed "best."

What we are asking is that you help provide protection so that we can continue to make those decisions. One of the factors many schools have wrestled with during this time is possible legal action resulting from COVID. Even if we follow the guidance from the CDC, health officials, and the DPI, there may be an instance where a legal claim is made against the district. Please consider supporting the legal liability extensions offered to all school types, including independently authorized charter schools, in AB 1. This measure gives us the ability to operate in the best interest of all stakeholders without fear of legal liability. Fear has, unfortunately, been all too prevalent during this pandemic. Help us to be able to enter into the best decisions we can make without any additional fear.

Thank you.

Yours in education,

A handwritten signature in black ink that reads "Vanessa Moran". The signature is written in a cursive, flowing style.

Vanessa Moran

Director, Office of Educational Opportunity



January 11, 2021

**TO: Members
Senate Committee on Senate Organization**

**FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses**

RE: 2021 Assembly Bill (AB) 1 relating to: state government actions to address the COVID-19 pandemic.

Chair LeMahieu and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2021 Assembly Bill (AB) 1.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent businesses with an effective voice in the legislative and regulatory activities of state government. Today, we proudly represent thousands of small businesses throughout Wisconsin. Most of our members (approximately 85%) own and operate businesses that fit within the legal definition of a small business – fewer than 25 employees and/or annual gross revenues of less than \$5 million. We represent manufacturers, service sector providers, wholesalers and retailers.

For the sake of brevity, my testimony is focused on the provisions of AB 1 which have a beneficial bottom-line impact on Wisconsin small businesses.

COVID-19 Liability Exemption for Businesses

Operating safely and responsibly has been a top priority for Wisconsin small businesses since the onset of the COVID-19 pandemic. They have complied with an array of federal laws and regulations, state laws and regulations as well as emergency orders issued by Governor Evers, the Wisconsin Department of Health Services and local public health departments.

Beyond that, small businesses have followed the guidelines recommended by the federal Centers for Disease Control and Prevention, the Wisconsin Departments of Health Services, Agriculture, Trade and Consumer Protection, and Safety and Professional Services as well as the Wisconsin Economic Development Corporation.

For small business owners, compliance with these laws, regulations, emergency orders, and guidelines has been, and continues to be, challenging, costly and time-consuming. Nonetheless, they have done so because operating safely and responsibly is of paramount importance. Small business owners care deeply about the health, safety and welfare of their employees, their customers, and their community. Many of these hometown businesses are family-owned and operated. Like everyone else, they want to do their part to control the spread of COVID-19.

We believe small businesses that operate safely and responsibly should receive civil liability protection from COVID-19 lawsuits. For that reason, we support the provisions of AB 1 relating to a COVID-19 liability exemption for Wisconsin businesses and business owners.

Unemployment Insurance Benefit Charging Relief for Wisconsin Employers

2019 Wisconsin Act 185 (Act 185) changed the procedures by which the Wisconsin Department of Workforce Development (DWD) attributes unemployment insurance (UI) benefits to employers.

For benefit weeks occurring after March 12, 2020 and before December 31, 2020, unemployment claims will generally not be attributed to an employer's unemployment account if DWD determines the claims are related to the COVID-19 pandemic. In other words, small businesses will not experience an increase in their unemployment tax rates because of increased unemployment claims that DWD determines are related to the COVID-19 pandemic.

Act 185 also requires employers to indicate whether a claim for UI benefits is related to the COVID-19 pandemic and DWD is required to specify the information that employers must provide and a deadline for employers to submit that information.

The reporting plan put in place by DWD presumes initial claims for UI benefits that began on or after March 15, 2020 through May 16, 2020 are due to the COVID-19 pandemic. For initial UI claims for weeks after May 16, 2020, employers may qualify for UI benefit charging relief by completing and submitting Form UCB-18823-E (Form) to DWD. This Form requires employers to indicate the reason that best describes why the layoff of the employee(s) is related to the COVID-19 pandemic. In turn, DWD uses this information to determine whether to grant charging relief.

AB 1 makes two beneficial changes to the procedures by which DWD attributes UI benefits to employers. First, AB 1 extends the UI benefit charging relief through the week ending March 13, 2021. That date is significant.

The federal CARES Act created three new federally funded UI benefit programs - Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC). The recently approved Consolidated Appropriations Act of 2021 extended funding and access to these programs to eligible claimants for an 11-week period ending March 14, 2021.

Extending the period of UI benefit charging relief will provide much-needed tax relief for Wisconsin employers. Moreover, by matching the deadline for UI benefit charging relief to the deadline for unemployed workers to claim federally funded UI benefits, AB 1 treats employers and unemployed workers impacted by the COVID-19 pandemic equally.

Second, AB 1 requires DWD to presume that initial claims for UI benefits beginning on or after March 15, 2020, through March 13, 2021 are due to the COVID-19 pandemic thereby relieving Wisconsin employers of the need to request UI benefit charging relief from DWD.

Since the onset of the COVID-19 pandemic, Wisconsin small business owners have spent a considerable amount of time and money filling out government-required paperwork. Reducing this red-tape burden is a step in the right direction.

We respectfully request your support of 2021 Assembly Bill 1.

Thank you in advance for your consideration.



Royall School District

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To: Members of the Committee on Finance
From: Mark Gruen – Royall District Administrator
Re: Assembly Bill 1. I - Liability Protection
Date: January 11, 2021

I am writing to support the portion of Assembly Bill 1. I that protects school districts from frivolous lawsuits with regard to the COVID-19 pandemic.

School Districts across the State of Wisconsin have been dealing with balancing student education while also protecting them from the virus since March of 2020. I sat in on countless virtual meetings where my professional colleagues weighed the danger with the loss of learning on a weekly basis. I can tell you that all decisions were made with student, staff, and community safety front and center.

School Districts across the state cannot afford to spend scarce taxpayer dollars to defend themselves against lawsuits related to COVID-19. Obviously, I am not supporting intentional misconduct or recklessness.

It is for these reasons, that I support protection for School Districts with regard to liability lawsuits.

Thank you for taking the time to read my testimony.

Achieving Excellence Together....Whatever It Takes!



Legislative Fiscal Bureau

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January 11, 2021

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Summary of Provisions of Senate Substitute Amendment 1 to 2021 Assembly Bill 1

On January 11, 2021, SSA 1 to Assembly Bill 1 was introduced.

Attached is a document, prepared by this office, which summarizes the provisions of SSA 1 to 2021 Assembly Bill 1.

BL/bh
Attachment

Senate Substitute Amendment 1 to 2021 Assembly Bill 1

Summary of Provisions

ADMINISTRATION

1. EMPLOYEE TRANSFER AUTHORITY

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.

[Bill Section: 9101(1)]

2. LIMITED-TERM EMPLOYEE HOURS

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.

[Bill Section: 19]

BOARD OF COMMISSIONERS OF PUBLIC LANDS

1. AUTHORIZE TRUST FUND LOANS TO MUNICIPAL UTILITIES

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 the 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.

[Bill Section: 9135(1)]

BUDGET MANAGEMENT

1. TRANSFERS FROM SUM SUFFICIENT APPROPRIATIONS

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.

[Bill Section: 1]

CHILDREN AND FAMILIES

1. CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

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.

[Bill Section: 9106(1)]

EMPLOYEE TRUST FUNDS

1. REHIRED ANNUITANTS IN CRITICAL POSITIONS

Specify that, until the conclusion of a national emergency declared in response to the 2019 novel coronavirus or June 30, 2021, whichever is earlier, a Wisconsin Retirement System (WRS) participant who is hired by a participating employer may elect to not suspend his or her annuity for the duration of the period 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.

[Bill Sections: 4, 5, and 18]

GENERAL PROVISIONS

1. COVID-19 LIABILITY EXEMPTION FOR ENTITIES

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.

[Bill Sections: 42 and 9151(1)]

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

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 during a period beginning on July 10, 2020, and ending 90 days following the expiration of the public health emergency that was declared by the Secretary of the U.S. Department of Health and Human Services (DHHS) in response to the COVID-19 pandemic; (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 provides 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 applies to actions or omissions retroactively to the expiration of the Act 185 immunity provision. For the purposes of that bill 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.

[Bill Sections: 43 thru 46, and 9119(5)]

HEALTH SERVICES

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

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.

[Bill Section: 9119(1)]

2. MA PAYMENTS FOR OUTPATIENT HOSPITAL SERVICES

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.

[Bill Section: 9119(2)]

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

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.

[Bill Section: 6]

4. COVERAGE OF VACCINATIONS UNDER SENIORCARE

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.

[Bill Section: 9119(3)]

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

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.

[Bill Section: 7]

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

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.

[Bill Section: 9119(4)]

INSURANCE

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

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.

[Bill Section: 39]

2. PRESCRIPTION DRUG LIMITS

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 until June 30, 2021: (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.

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

[Bill Section: 40]

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

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 of facility is reimbursed by the defined network plan or preferred provider plan.

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.

[Bill Sections: 37 and 38]

4. LIABILITY INSURANCE FOR PHYSICIANS AND NURSE ANESTHETISTS

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.

[Bill Section: 41]

PUBLIC INSTRUCTION

1. VIRTUAL INSTRUCTION REPORTS

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. Specify that the end of the semester would be defined as the last day on which instruction is provided to pupils in a semester, or if the district does not use semesters, as the last day of the first half of the school term and the last day of the school term. Define virtual instruction as instruction provided by means of the Internet if the pupils participating in and instructional staff providing the instruction are geographically remote from each other. 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, and would not be required 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; (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.

[Bill Section: 9134(1)]

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

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.

[Bill Sections: 13 thru 17]

SAFETY AND PROFESSIONAL SERVICES

1. AUTHORIZE PHARMACY STUDENTS TO ADMINISTER COVID-19 VACCINE

Authorize first- and second-year pharmacy students to administer without a prescription order a vaccine against SARS-CoV-2, the virus that causes COVID-19. 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.

[Bill Sections: 28 thru 32]

2. PRESCRIPTION ORDER EXTENSIONS

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 on June 30, 2021. 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.

[Bill Sections: 34 thru 36]

3. LICENSING AND REGULATION OF THIRD-PARTY LOGISTICS PROVIDERS

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 DSPPS 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.

[Bill Sections: 20, 22 thru 27, 33, 9138(1)&(2)]

4. HEALTH SERVICES PROVIDERS FROM OTHER STATES

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.

[Bill Section: 21]

UNIVERSITY OF WISCONSIN

1. ELIGIBLE VOLUNTEER OR WORK ACTIVITY

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.

[Bill Sections: 2 and 9347(1)]

WISCONSIN TECHNICAL COLLEGE SYSTEM

1. ELIGIBLE VOLUNTEER OR WORK ACTIVITY

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.

[Bill Sections: 3 and 9342(1)]

WORKFORCE DEVELOPMENT

1. UNEMPLOYMENT INSURANCE - WAITING WEEK

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.

[Bill Section: 8]

2. UNEMPLOYMENT INSURANCE - BENEFIT CHARGING

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.

[Bill Sections: 10 thru 12]

3. UNEMPLOYMENT INSURANCE - PLAN TO REDUCE PROCESSING BACKLOG

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, adjudication, or appeals 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.

[Bill Sections: 9150(1)(a) and 9150(1)(b)]

4. UNEMPLOYMENT INSURANCE - CALL CENTER HOURS

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, adjudication, or appeals is comparable to those in January, 2020, and February 2020, as determined by DWD.

[Bill Section: 9150(1)(c)]

5. UNEMPLOYMENT INSURANCE - WORK SHARE

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.

[Bill Section: 9]