



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6079/1
ALL:all

2017 SENATE BILL 887

December 3, 2018 - Introduced by JOINT COMMITTEE ON FINANCE. Referred to Joint Committee on Finance.

1 **AN ACT** *to repeal* 6.34 (1) (b), 6.87 (4) (a) 2., 16.84 (5) (d), 20.395 (2) (fq), 49.79
2 (9) (d) 1., 165.055 (3), 227.20 (3) (c), 227.46 (3) (a), 227.46 (8), 230.08 (2) (sb),
3 238.399 (3) (e), 601.83 (1) (b) and 601.85 (4); **to renumber** 227.138 (1) (a) to (h);
4 **to renumber and amend** 13.90 (3), 15.165 (2), 49.79 (9) (d) 2., 71.07 (7) (b),
5 71.365 (1), 108.04 (2) (a) 3. (intro.), 108.04 (2) (a) 3. a. to c., 108.04 (2) (b), 165.08,
6 165.25 (6) (a), 227.135 (2), 227.135 (4), 227.137 (3) (e), 227.138 (1) (intro.),
7 227.40 (3) (intro.), 227.40 (3) (a) and 343.50 (1) (c); **to consolidate, renumber**
8 **and amend** 6.34 (1) (intro.) and (a) and 6.87 (4) (a) (intro.) and 1.; **to amend**
9 5.02 (6m) (f), 5.02 (21), 5.05 (13) (c), 5.05 (13) (d) 1., 5.60 (8) (am), 6.22 (2) (b),
10 6.22 (2) (e), 6.22 (4) (a), 6.22 (4) (c), 6.24 (2), 6.24 (4) (c), 6.24 (4) (d), 6.24 (4) (e),
11 6.25 (1) (b), 6.276 (1), 6.86 (1) (b), 6.865 (1), 6.87 (2), 6.87 (3) (d), 6.87 (4) (b) 1.,
12 6.88 (1), 6.97 (1), 7.08 (2) (d), 7.15 (1) (cm), 7.15 (1) (j), 8.12 (1), 8.12 (3), 10.02
13 (3) (b) 3., 10.06 (2) (d), 10.06 (2) (g), 11.0101 (32), 13.56 (2), 13.90 (2), 13.91 (1)
14 (c), 20.445 (1) (b), 20.455 (1) (gh), 20.455 (2) (gb), 20.455 (3) (g), 45.57, 49.175

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1 (2) (a), 49.175 (2) (c), 71.05 (6) (a) 14., 71.07 (7) (c), 71.36 (1), 73.03 (71), 77.51
2 (13g) (intro.), 106.05 (2) (b) (intro.), 106.05 (3) (a), 106.13 (3m) (b) (intro.),
3 106.18, 106.26 (3) (c) (intro.), 106.272 (1), 106.273 (3) (a) (intro.), 106.273 (3) (b),
4 106.275 (1) (a), 108.04 (2) (a) (intro.), 108.04 (2) (a) 1., 108.04 (2) (a) 2., 108.04
5 (2) (bm), 165.10, 165.25 (1), 165.25 (1m), 227.01 (13) (intro.), subchapter II
6 (title) of chapter 227 [precedes 227.10], 227.11 (title), 227.13, 227.135 (3),
7 227.137 (2), 227.137 (4), 227.138 (2), 227.185, 227.20 (3) (a), 227.24 (1) (e) 1d.,
8 227.24 (1) (e) 1g., 227.40 (1), 227.40 (2) (intro.), 227.40 (2) (e), 227.40 (3) (b) and
9 (c), 227.40 (4) (a), 227.40 (6), 227.46 (1) (h), 227.46 (2), 227.46 (2m), 227.47 (1),
10 227.57 (11), 238.02 (1), 238.02 (2), 238.02 (3), 238.399 (3) (a), 281.665 (5) (d),
11 343.50 (3) (b), 601.83 (1) (a), 601.83 (1) (g), 601.83 (1) (h), 801.50 (3) (b), 806.04
12 (11), 809.13 and subchapter VIII (title) of chapter 893 [precedes 893.80]; **to**
13 **create** 5.02 (12n), 5.02 (15m), 13.103, 13.124, 13.127, 13.365, 13.48 (24m),
14 13.90 (3) (a) and (b), 15.07 (1) (b) 24., 15.165 (2) (d) and (f) to (i), 16.42 (5), 16.84
15 (2m), 16.973 (15), 20.445 (1) (bz), 20.445 (1) (cg), 20.445 (1) (dg), 20.445 (1) (dr),
16 20.445 (1) (e), 20.445 (1) (fg), 20.445 (1) (fm), 20.940, 35.93 (2) (b) 3. im., 49.45
17 (2t), 49.45 (23b), 49.791, 71.05 (10) (dm), 71.07 (7) (b) 3., 71.21 (6), 71.365 (1) (b),
18 71.365 (4m), 71.775 (3) (a) 4., 73.03 (71) (d), 77.51 (13gm), 84.54, 86.51, 108.04
19 (2) (b) 1. (intro.), 108.04 (2) (b) 2. to 6., 108.04 (2) (bb), 108.04 (2) (bd), 165.07,
20 227.01 (3m), 227.05, 227.10 (2g), 227.11 (3), 227.112, 227.135 (1) (g), 227.135 (1)
21 (h), 227.135 (2) (a) 2., 227.135 (4) (a) 1. to 6., 227.135 (6), 227.137 (2m), 227.137
22 (3) (e) 1. to 4., 227.137 (3m), 227.138 (1g), 227.18 (3m), 227.26 (2) (im), 227.47
23 (3), 238.04 (15), 238.399 (3) (am), 301.03 (16), 343.165 (8), 343.50 (1) (c) 2.,
24 343.50 (3) (c), 601.83 (1) (i), 803.09 (2m) and 893.825 of the statutes; and **to**
25 **affect** 2017 Wisconsin Act 59, section 9145 (4w); **relating to:** legislative power

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1 and duties, state agency and authority composition and operations,
2 administrative rule-making process, federal government waivers and
3 approvals, unemployment insurance work search and registration
4 requirements, and making an appropriation.

Analysis by the Legislative Reference Bureau

1.

Generally, under current law, an agency planning to promulgate an administrative rule, including an emergency rule, must first prepare a statement of the scope of the proposed rule (scope statement). A scope statement must be submitted to the Department of Administration for a determination as to whether the agency has the explicit authority to promulgate the rule as proposed in the scope statement. DOA must then report the statement and its determination to the governor who, in his or her discretion, may approve or reject the scope statement. Also under current law, after a proposed administrative rule, including an emergency rule, is in final draft form, the agency promulgating the proposed rule must submit the proposed rule to the governor, who may approve or reject the proposed rule. No agency may promulgate an administrative rule without the written approval of the governor.

In *Coyne v. Walker*, 2016 WI 38, the Wisconsin Supreme Court held that provisions requiring gubernatorial approval of scope statements and rules are unconstitutional as applied to the superintendent of public instruction.

Consistent with the result in *Coyne*, this bill exempts rules promulgated by the Department of Public Instruction from the requirements that a) a scope statement be submitted to DOA for a determination of authority and that the scope statement be approved by the governor and b) a proposed rule in final draft form be submitted to the governor and that the governor approve the rule in writing.

2.

This bill requires a state agency to provide a statutory or administrative rule citation for any statement or interpretation of law that the agency provides in its informational materials.

3.

This bill allows the legislature to request an independent retrospective economic impact analysis (EIA) for a rule.

Under current law, either cochairperson of the Joint Committee for Review of Administrative Rules may request an independent EIA for a proposed rule after an agency submits its EIA for that proposed rule. Such a request by the senate cochairperson of JCRAR requires approval by the Committee on Senate Organization, and a request by the assembly cochairperson requires approval by the Committee on Assembly Organization. Current law requires the requester to enter into a contract to perform the independent EIA, and requires the analysis to be

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completed within 60 days after entering into the contract. Under current law, an independent EIA is paid for by the agency if the independent EIA's cost estimate for the proposed rule varies by 15 percent or more from the agency's EIA, and is paid for by the legislature if the independent EIA's cost estimate for the proposed rule varies by less than 15 percent from the agency's EIA.

Also under current law, either cochairperson of JCRAR may request an agency to conduct a retrospective EIA for existing rules, which must contain certain information and analysis about the economic impact of the agency's existing rules. This bill allows either cochairperson of JCRAR to request an independent retrospective EIA for a rule within 90 days after an agency submits a retrospective EIA for the rule. The bill specifies that a request for an independent retrospective EIA for a rule follows the same procedure and payment method as a request for an independent EIA for a proposed rule.

4.

This bill allows pass-through entities to elect to be taxed at the entity level for purposes of the state's income and franchise taxes.

Under current law, pass-through entities, such as tax-option corporations and partnerships, are generally not subject to the income or franchise tax at the entity level. Rather, any item of income, loss, or deduction flows through to their shareholders, partners, or members, who are then subject to tax.

The bill allows tax-option corporations and partnerships, including limited liability companies and other entities that are treated as partnerships under federal tax law, to elect to be taxed at the entity level for purposes of the income and franchise taxes. An entity that makes the election is taxed at a rate of 7.9 percent on its net income that is reportable to Wisconsin, and the situs of income is determined as if the election was not made. The entity may not claim losses and tax credits except for the credit for taxes paid to other states. The bill also provides that the adjusted basis of the entity's partners, shareholders, or members is determined as if the election was not made. If the entity fails to pay the taxes due, the Department of Revenue may collect the amount from the entity's partners, shareholders, or members. Persons who hold more than 50 percent ownership of the pass-through entity must consent to the election and must consent to any revocation of the election. The bill allows the election to be made for taxable years beginning in 2018 for tax-option corporations and 2019 for other entities.

5.

This bill requires the Department of Veterans Affairs to submit to the Joint Committee on Finance a notification of any transfers of funds from the unencumbered balance of certain appropriations for veterans homes to the veterans trust fund or the veterans mortgage loan repayment fund. Current law allows those transfers to be made without any notification.

6.

Under current law, no later than September 15 of each even-numbered year, each executive state agency must file with DOA the agency's budget request for the succeeding biennium. This bill requires each agency to include with its biennial

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budget request a report that lists each fee the agency is authorized to charge. The report must also include the following:

1. The amount of each fee or the method of calculating the fee if there is no fixed amount.
2. An identification of the agency's statutory authority to charge each fee.
3. A statement whether or not the agency currently charges the fee.
4. A description of whether and how each fee has changed over time.
5. Any recommendation the agency has concerning each fee.

The bill defines "fee" as any amount of money other than a tax that an agency charges a person other than a governmental entity.

7.

Under current law, the Department of Transportation may make transfers of state and federal funding between highway programs. This bill eliminates this authority.

8.

This bill increases the size of the Group Insurance Board by four members. The new members are appointed, respectively, by the speaker of the assembly, the assembly minority leader, the senate majority leader, and the senate minority leader. The bill also provides that the six members appointed by the governor for two-year terms are subject to senate confirmation.

9.

This bill requires the Building Commission to establish an amortization schedule for each short-term, general obligation debt authorized by the commission. The amortization schedule must provide that a portion of the principal amount of the debt is retired annually over the life of the improvement or asset to which the debt is related. An amortization schedule established as required under the bill may not be modified except as authorized by JCF under passive review.

10.

Under current law, the Department of Children and Families is directed to allocate in each fiscal year specific amounts of money, including federal moneys received under the Temporary Assistance for Needy Families (TANF) block grant program, for various public assistance programs (commonly known as the TANF schedule). Under current law, DCF may reallocate funds that are allocated for one purpose in the TANF schedule for any other purpose in the TANF schedule if the secretary of administration approves the reallocation. Also under current law, if the TANF moneys received from the federal government are less than the amounts appropriated for the purposes under the TANF schedule, DCF is required to create a plan for reducing the amounts of moneys allocated under the TANF schedule and to carry it out if the secretary of administration approves the plan. This bill replaces the authority of the secretary to approve a reallocation or a plan to reduce the moneys allocated under the TANF schedule with passive review by JCF.

11.

This bill separates a single appropriation to the Department of Workforce Development for various workforce training programs, commonly referred to as the

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Fast Forward program, into a separate appropriation for each program. The bill appropriates the following amounts for each of the following programs for fiscal year 2018-19:

1. Career and technical education incentive grants — \$3,500,000
2. Technical education equipment grants — \$500,000
3. Teacher development program grants — \$0
4. Apprenticeship programs — \$225,000
5. Local youth apprenticeship grants — \$2,233,700
6. Employment transit assistance grants — \$464,800
7. Youth summer jobs programs in 1st class cities (currently only the city of Milwaukee) — \$422,400

Under the bill, DWD may request that JCF transfer moneys from the Fast Forward appropriation account to the appropriation accounts for the teacher development program grants and local youth apprenticeship grants to fund those grant programs.

The bill also converts the Fast Forward appropriation from a continuing appropriation to an annual appropriation.

12.

Under current law, DOA contracts with a vendor to provide web-based technology services through a web portal to state agencies, state authorities, units of the federal government, local governmental units, tribal schools, individuals, and entities in the private sector. Revenue received from the fees charged for certain services provided through the self-funded web portal is disbursed as payment to the vendor.

This bill requires DOA to submit to JCF and the legislature by October 1 of each year a report on the administration of the self-funded portal. The report must include the following information: 1) a financial statement of state revenues and expenditures; 2) a list of services available; 3) fees charged for each service; 4) the activity level of each service; and 5) any other information that DOA determines is appropriate to include.

13.

This bill eliminates the power of the attorney general to appoint a solicitor general and up to three deputy solicitors general, each of whom must be licensed to practice law in this state. The effect of the bill is to eliminate the Office of the Solicitor General in the Department of Justice, which represents the state in certain cases on appeal in state and federal courts.

14.

Under current law, the board of directors of the Wisconsin Economic Development Corporation consists of 12 voting members as follows:

1. Six members are appointed by the governor subject to senate confirmation, to serve at the pleasure of the governor.
2. Three members are appointed by the speaker of the assembly, consisting of one majority and one minority party representative to the assembly and one person employed in the private sector, all of whom serve at the speaker's pleasure.

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3. Three members are appointed by the senate majority leader, consisting of one majority and one minority party senator and one person employed in the private sector, all of whom serve at the majority leader's pleasure.

Under this bill, the board consists of 18 members. The speaker of the assembly and the senate majority leader each appoint five members to the board, and the appointees need not be members of the legislature nor employed in the private sector. Also, under the bill, the minority leader of each house appoints one member to the board. The membership appointed by the governor remains unchanged.

The bill further provides that the chief executive officer of WEDC is appointed by the board of directors of WEDC and serves at the pleasure of the board. Currently, the governor appoints the CEO.

15.

This bill requires the presidential preference primary to be held on the second Tuesday in March rather than the first Tuesday in April.

16.

Under current law, a qualified elector may apply for an absentee ballot in-person no earlier than the third Monday preceding the election and no later than the Friday preceding the election. Under this bill, a qualified elector may apply for an absentee ballot in-person no earlier than the third Saturday preceding the election and no later than the Friday preceding the election.

17.

This bill requires a party that alleges that a statute is unconstitutional, or in violation of or preempted by federal law, to serve the speaker of the assembly, the president of the senate, and the senate majority leader with a copy of the proceeding. The bill also requires that, in such cases, the assembly, the senate, and the Joint Committee on Legislative Organization (JCLO) are entitled to be heard, representing the legislature and the state.

Under current law, if a statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general must be served with a copy of the proceeding and be entitled to be heard. This requirement exists in the statutes for declaratory judgment acts under s. 806.04 (11). The Wisconsin Supreme Court has also extended the requirement to other types of actions involving claims that a statute is unconstitutional. See *Kurtz v. City of Waukesha*, 91 Wis. 2d 103, 280 N.W.2d 757 (1979). This bill incorporates the *Kurtz* rule into the statutes and extends both the current statutory and *Kurtz* requirements of service and an opportunity to be heard to the legislature when a statute is alleged to be unconstitutional or in violation of or preempted by federal law.

The bill also provides that when a party challenges the constitutionality of a statute, facially or as applied, or challenges a statute as violating or preempted by federal law, as part of a claim or affirmative defense, the assembly, the senate, and JCLO have the right at any time to intervene and participate in the action and may also retain legal counsel other than DOJ. Under the bill, the Committee on Assembly Organization may intervene in the action, as well as obtain legal counsel, on behalf of the assembly; the Committee on Senate Organization may intervene in the action, as well as obtain legal counsel, on behalf of the senate; and JCLO may intervene in

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the action, as well as obtain legal counsel, on behalf of the state. If JCLO determines that the interests of the state will be best represented by special counsel appointed by the legislature, JCLO must appoint special counsel to represent the state defendants and act instead of the attorney general. In these circumstances, special counsel has the powers of the attorney general with respect to the litigation to which special counsel has been appointed.

Under current law, DOJ deposits settlement funds that are not committed under the terms of the settlement into a DOJ appropriation and may spend the funds only after submitting a plan for the expenditure to JCF for passive review. If JCF does not schedule a meeting to review the proposed plan within 14 days, DOJ may expend the funds as provided in the plan. This bill requires that DOJ must deposit all settlement funds into the general fund. This bill also lapses all unencumbered settlement funds that are currently in the DOJ appropriation into the general fund.

Current law allows the attorney general to compromise or discontinue an action DOJ is prosecuting if the governor approves the compromise or discontinuance. This bill requires JCF to approve the compromise or discontinuance instead of the governor. Current law allows the attorney general to settle and compromise actions in which the attorney general is appearing for and defending the state as the attorney general determines to be in the best interest of the state. This bill requires that, if the action is for injunctive relief or there is a proposed consent decree, the attorney general must submit the settlement or compromise plan to JCF for passive review. If JCF does not schedule a meeting to review the plan within 14 days, the attorney general may proceed, but, if JCF does schedule a meeting, the attorney general may proceed only with the approval of JCF.

The bill further provides that the attorney general may not submit a proposed settlement plan to JCF in which the plan concedes the unconstitutionality or other invalidity of a statute without the approval of JCLO.

18.

Under current law, as the final step of the administrative rule process, an agency must file a certified copy of a rule with the Legislative Reference Bureau for publication. Filing a certified copy of a rule with the LRB creates a number of presumptions, including that the rule was duly promulgated by the agency and that all of the required rule-making procedures were complied with.

This bill eliminates the statutory presumptions that a rule was “duly” promulgated by the agency and that all of the required rule-making procedures were complied with.

19.

Under current law, DOR must determine the amount of additional revenue collected from the state sales and use tax as a result of any federal law that expands the state’s authority to collect sales and use taxes from out-of-state retailers. After DOR makes that determination, it must then determine how much the individual income tax rates may be reduced in the following taxable year in order to decrease individual income tax revenue by the amount of additional sales and use tax revenue. Finally, DOR must certify its determinations to the secretary of administration, to the governor, and to the legislature and specify that the new individual income tax

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rates will take effect in the following year. No further legislation is required to make this change.

The U.S. Supreme Court recently upheld a South Dakota law that required the collection of state sales and use taxes from any out-of-state seller that either conducts 200 or more transactions annually with consumers in the state or has annual sales in the state exceeding \$100,000. See, *South Dakota v. Wayfair, Inc.*, 585 U.S. ___ (2018). The *Wayfair* decision overturned longstanding precedent that prevented a state from collecting sales and use tax from out-of-state sellers that did not have a physical presence in the state. See, *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

This bill clarifies that the recent U.S. Supreme Court decision that expands a state's authority to collect sales and use taxes from out-of-state retailers triggers the determinations mentioned above. The bill also provides that the new individual income tax rates based on the determinations would not take effect automatically in the year following DOR's certification, but, instead, DOA, in consultation with DOR, would determine the new tax rates to take effect for the taxable year ending on December 31, 2019, and report its determinations to the governor, JCF, and the Legislative Audit Bureau. LAB would then review the determinations and report its findings to JCF and the Joint Legislative Audit Committee. If LAB's review results in a re-determination of the rates, JCF would determine which rates apply to the taxable year ending on December 31, 2019, and report its determination to the governor, the secretary of administration, and the secretary of revenue. Finally, the bill includes in the definition of a "retailer engaged in business in this state" any retailer that has annual gross sales into this state in excess of \$100,000 or an annual number of separate sales transactions into this state of 200 or more.

20.

Current law requires DOA, at the direction of JCLO, to lease or acquire office space for legislative offices or legislative service agencies. This bill requires instead that the cochairpersons of JCLO lease or acquire office space for legislative offices or legislative services agencies.

21.

Currently, representatives to the assembly and senators, as well as legislative employees, may receive legal representation from DOJ in most legal proceedings. Assembly and senate policies and practices also allow legislators and legislative employees to retain outside legal counsel in some instances.

With respect to the assembly, the bill provides that the speaker of the assembly may authorize a representative to the assembly or assembly employee who requires legal representation to obtain outside legal counsel if the acts or allegations underlying the action are arguably within the scope of the representative's or employee's duties. The speaker may also obtain outside legal counsel in any action in which the assembly is a party or in which the interests of the assembly are affected, as determined by the speaker.

With respect to the senate, the bill provides that the senate majority leader may authorize a senator or senate employee who requires legal representation to obtain outside legal counsel if the acts or allegations underlying the action are arguably

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within the scope of the senator's or employee's duties. The majority leader may also obtain outside legal counsel in any action in which the senate is a party or in which the interests of the senate are affected, as determined by the majority leader.

Finally, the bill provides that the cochairpersons of JCLO may authorize a legislative service agency employee who requires legal representation to obtain outside legal counsel if the acts or allegations underlying the action are arguably within the scope of the employee's duties. The cochairpersons may also obtain outside legal counsel in any action in which the legislature is a party or in which the interests of the legislature are affected, as determined by the cochairpersons.

22.

Under current law, a state agency must prepare a fiscal estimate for each proposed rule, which must describe the fiscal effect of the proposed rule on local governmental fiscal liabilities and revenues, the fiscal effect of the proposed rule on state government, and, for rules that the agency determines may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by the private sector in complying with the rule. Also under current law, the agency must prepare an economic impact analysis for a proposed rule, which must contain certain specified information on the economic effect of the proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole, as well as certain other information regarding the economic impact of the proposed rule.

This bill specifically requires an economic impact analysis for a proposed rule to be prepared and submitted separately from the fiscal estimate for the proposed rule.

23.

This bill provides that a plan submitted by an agency to the federal government for the purpose of complying with federal law (compliance plan) does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. The bill provides that no agency may agree to promulgate a rule as a component of a compliance plan unless the agency has explicit statutory authority to promulgate the rule at the time the compliance plan is submitted to the federal government.

24.

This bill requires the Department of Corrections to submit a report to the legislature upon request, and to post the report on its website, regarding individuals who, since the previous report or during a date range specified in the request, were pardoned or released from imprisonment before completing their sentences. The report must identify each individual by name, include the crime for which he or she was convicted, and provide the name of the person who pardoned the individual or authorized the early release. If an individual appears on a report requested under this bill and is subsequently convicted of a crime, this bill requires DOC to report also the name of that individual and the crime.

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This bill requires all executive branch state agencies, other than the Board of Regents of the University of Wisconsin System, to submit a quarterly report to JCF listing all state agency expenditures for state operations in the preceding calendar quarter. The report must specifically detail all expenditures for administrative supplies and services that are made at the discretion of or to be used by heads of state agencies, secretaries, deputy secretaries, assistant deputy secretaries, and executive assistants. Under the bill, "state operations" means all agency expenditures except aids to individuals and organizations and local assistance.

26.

Under current law, administrative rules that are in effect may be temporarily suspended by JCRAR. If JCRAR suspends a rule, JCRAR must introduce bills in each house of the legislature to make the suspension permanent. If neither bill to support the suspension is ultimately enacted, the rule may remain in effect and JCRAR may not suspend the rule again.

This bill provides that JCRAR may suspend a rule multiple times.

27.

Under current law, an agency may, by rule or by an order in a particular case, specify that the decision of a hearing examiner who conducts a hearing in a contested case proceeding is the final decision of the agency. This bill prohibits an agency from delegating the authority to issue a final decision in a contested case to a hearing examiner. This bill also requires that all final decisions of an agency must be approved, signed, and dated by the secretary of the agency.

28.

The bill provides that any individual nominated by the governor or another state officer or agency, and with the advice and consent of the senate appointed, to any office or position may not hold the office or position, be nominated again for the office or position, or perform any duties of the office or position during the legislative session biennium if the individual's confirmation for the office or position is rejected by the senate. Currently, there is no prohibition against the governor or another state officer or agency nominating the individual again for the office or position or appointing the individual to the office or position as a provisional appointment.

29.

This bill requires that WEDC obtain approval from JCF under passive review before WEDC designates a new enterprise zone under the enterprise zone tax credit program. The bill also eliminates any restriction on the number of enterprise zones WEDC may designate. Currently, WEDC may not designate more than 30 enterprise zones.

30.

This bill provides that for Southeast Wisconsin freeway megaprojects, major highway development projects, and certain state highway rehabilitation projects for which DOT spends federal money, federal money must make up at least 70 percent of the aggregate funding for those projects. The bill provides that if DOT determines that it cannot meet this requirement or that it can make more effective and efficient

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use of federal money, DOT may submit a proposed alternate funding plan to JCF for review under its passive review procedure.

The bill requires DOT to notify political subdivisions receiving aid for local projects whether the aid includes federal moneys and how those moneys must be spent. The bill provides that, for projects that receive no federal money and that are reviewed and approved by a professional engineer or the county highway commissioner, DOT may not require political subdivisions to comply with any portion of DOT's facilities development manual other than design standards.

31.

Under current law, an applicant for a driver's license or identification card must provide to DOT 1) an identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth; 2) documentation showing the applicant's date of birth, which may be the same as item 1; 3) proof of the applicant's social security number or verification that the applicant is not eligible for a social security number; 4) documentation showing the applicant's name and address of principal residence; and 5) documentary proof that the applicant is a U.S. citizen or is otherwise lawfully present in the United States.

In 2015 and 2017, DOT promulgated rules, the first establishing and the second modifying, a procedure by which persons requesting free identification cards for the purpose of voter identification could receive these cards despite being unable to provide required documentary proof. In general, the procedure requires an applicant to provide DOT with either 1) the applicant's full legal name, date of birth, place of birth, and any other birth record information requested by DOT; or 2) the applicant's alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number. DOT then shares this information with the Department of Health Services or the federal government for the purpose of verifying the applicant's identity. In general, a person may receive a voter identification card under this procedure if either DHS or the federal government verifies the person's identity or if DOT receives acceptable alternate documentation. This bill incorporates this verification procedure into the statutes.

DOT's 2017 rule also provided a procedure by which an applicant for an identification card could obtain a card with a name other than the name that appears on the applicant's supporting documentation. The bill also incorporates this procedure into the statutes.

Under current law, an unexpired identification card issued by an accredited university or college in this state may be used as identification for voting purposes if it contains a photograph and the signature of the person to whom it was issued, it expires no later than two years after the date of issuance, and the person establishes that he or she is enrolled as a student at the university or college on election day. The Government Accountability Board (now the Elections Commission) promulgated a rule to clarify that an identification card issued by a technical college that is governed by this state's technical college system may be used for voting purposes. The bill codifies the rule.

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Under current law, a claimant for unemployment insurance benefits is generally required to conduct searches for work each week to be eligible for unemployment benefits and to register for work. Current law provides that a claimant who is laid off is exempt from these requirements if the claimant reasonably expects to be reemployed by the former employer and DWD verifies that expectation. Administrative rules promulgated by DWD require DWD to grant a claimant a waiver of the work search and registration requirements for eight weeks if the claimant reasonably expects to be reemployed with the claimant's employer within that period and allow an additional four-week extension of that waiver. The rules also provide additional reasons a claimant may qualify for a waiver and require claimants for whom the requirements are not waived to provide verification of having complied with work search and registration requirements.

This bill eliminates DWD's authority to establish waivers from work search and registration requirements and codifies the current waivers contained in DWD's rules. However, the bill allows DWD to modify or eliminate a waiver, or to create additional waivers, if doing so is necessary to comply with federal law or is specifically allowed under federal law. The bill also codifies the requirement that a claimant provide verification of having complied with work search and registration requirements.

33.

This bill requires DOA to submit any proposed changes to security at the capitol, including the posting of a firearm restriction, to JCLO for approval under passive review.

34.

Under current law, the Department of Natural Resources administers the municipal flood control and riparian restoration program, which provides grants that pay a portion of the costs of facilities and structures for the collection and transmission of storm water, including the purchase of flowage and conservation easements on lands within floodways, and of floodproofing public and private structures located in the 100-year floodplain. Current law requires DNR to promulgate rules specifying eligibility criteria for projects and for determining which projects will receive financial assistance. However, under current law, during the 2017-19 fiscal biennium, DNR must consider an applicant to be eligible for such a grant if the project is funded or executed in whole or in part by the U.S. Army Corps of Engineers' small flood control projects program, and DNR must provide such an applicant with a cost-sharing grant not to exceed \$14,600,000. This bill extends this requirement to the 2019-21 biennium as well.

35.

This bill changes DOJ gifts and grants appropriations from continuing appropriations to annual appropriations.

36.

The bill a) requires committees appointed by agencies to provide advice with respect to rule making to submit a list of the members of the committee to JCRAR;

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b) makes various changes with respect to the required content and preparation of statements of scope and EIAs for rules, including mandating minimum comment periods for EIAs for rules; c) prohibits an agency from submitting a statement of scope for a proposed rule to the LRB for publication in the register more than 30 days after the date of the governor's approval of the statement of scope without the approval of the governor; and d) codifies current practice by allowing an agency that intends to concurrently promulgate an emergency rule and a permanent rule that are identical in substance to submit one statement of scope indicating this intent.

37.

This bill modifies current law regarding the voting procedures for military and overseas electors so that the law is in substantial compliance with the federal Uniformed and Overseas Citizens Absentee Voting Act. The bill also modifies current law so that an individual signing the witness certification for an absentee ballot cast by a military elector or overseas elector need not be a United States citizen.

The bill allows all overseas electors to receive absentee ballots electronically, regardless of whether such electors are considered permanently or temporarily overseas. Under the bill, an overseas elector is a U.S. citizen who is residing outside of the United States, who is not disqualified from voting, who has attained or will attain the age of 18 by the date of an election at which the citizen proposes to vote, who was last domiciled in this state or whose parent was last domiciled in this state immediately prior to the parent's departure from the United States, and who is not registered to vote or voting in any other state, territory, or possession.

38.

This bill 1) prohibits a court from according deference to agency interpretations of law in certain proceedings and prohibits agencies from seeking deference in any proceeding to agency interpretations of law; 2) establishes various requirements with respect to the adoption and use of guidance documents by agencies, including requirements that agencies must comply with in order to adopt guidance documents; and 3) provides that settlement agreements do not confer rule-making authority.

Generally under current law, when reviewing an agency decision in a contested case or other matter subject to judicial review under the law governing administrative procedure for state agencies, a court must accord due weight to the experience, technical competence, and specialized knowledge of the agency involved, as well as discretionary authority conferred upon it. Consistent with the Wisconsin Supreme Court's decision in *Tetra Tech EC, Inc. v. Wis. Dep't of Revenue*, 2018 WI 75, the bill limits this directive such that a court performing judicial review of such a decision must accord no deference to an agency's interpretation of law.

The bill also provides that no agency may seek deference in any proceeding based on the agency's interpretation of any law.

Subject to various exceptions, the bill defines "guidance document" as any formal or official document or communication issued by an agency, including a manual, handbook, directive, or informational bulletin, that 1) explains the agency's implementation of a statute or rule enforced or administered by the agency, including the current or proposed operating procedure of the agency; or 2) provides guidance

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or advice with respect to how the agency is likely to apply any statute or rule enforced or administered by the agency, if that guidance or advice is likely to apply to a class of persons similarly affected.

The bill requires each agency to submit each proposed guidance document to the Legislative Reference Bureau for publication in the register and to provide a period for persons to submit written comments to the agency on the proposed guidance document. The agency must retain all written comments submitted during the public comment period and consider those comments in determining whether to adopt the guidance document as originally proposed, modify the proposed guidance document, or take any other action. The bill allows for a comment period of less than 21 days with the approval of the governor. The bill also requires each adopted guidance document, while valid, to remain available on the agency's Internet site and requires the agency to permit continuing public comment on the guidance document. Each guidance document must be signed by the head of the agency below a statement containing certain certifications.

The bill provides that a guidance document does not have the force of law and does not provide the authority for implementing or enforcing a standard, requirement, or threshold, including as a term or condition of any license. An agency that proposes to rely on a guidance document to the detriment of a person in any proceeding must afford the person an adequate opportunity to contest the legality or wisdom of a position taken in the guidance document, and an agency may not use a guidance document to foreclose consideration of any issue raised in the guidance document. The bill also contains other provisions with respect to agency use of and reliance upon guidance documents, allows certain persons to petition an agency to promulgate a rule in place of a guidance document, and makes guidance documents subject to the same judicial review provisions as apply to rules.

The bill requires the Legislative Council staff to provide agencies with assistance in determining whether documents and communications are guidance documents as defined in the bill.

The bill provides that, as of six months after the bill's effective date, any guidance document that does not comply with the requirements in the bill is considered to be rescinded.

The bill provides that a settlement agreement, consent decree, or court order does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. The bill provides that no agency may agree to promulgate a rule as a term in any settlement agreement, consent decree, or stipulated order of a court unless the agency has explicit statutory authority to promulgate the rule at the time the settlement agreement, consent decree, or stipulated order of a court is executed.

39.

This bill generally provides for legislative oversight of requests for federal approval. The bill prohibits a state, executive branch agency from submitting a request to a federal agency for a waiver or renewal, modification, withdrawal, suspension, or termination of a waiver of federal law or rules or for authorization to implement a pilot program or demonstration project unless legislation has been enacted specifically directing the submission of the request. For any legislation

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enacted on or after January 1, 2011, that requires submission of a request that has not yet been submitted, the bill requires the applicable state agency to submit an implementation plan to JCF containing an expected timeline with an expected submission date to the federal agency no later than 90 days after the state agency submits the implementation plan to JCF, for which JCF may grant up to three 90-day extensions under its passive review process, and submit its final proposed request to JCF for approval.

Once the request has been submitted to the federal agency, the bill requires the state agency to do all of the following: make biweekly contact with the federal agency to continue negotiations, submit monthly progress reports to JCF on negotiations with the federal agency including descriptions of any portions of the request that the federal agency stated will not be approved, make available on a quarterly basis a representative of the state agency for JCF briefings or hearings, and submit the proposed approval as negotiated with the federal agency to JCF for approval or disapproval before agreeing with the final federal approval. When the federal agency has approved the request in whole or in part and the request has not been fully implemented, the state agency must submit an implementation plan to JCF, submit its final implementation plan to JCF for approval, and make available on a quarterly basis a representative of the state agency for JCF briefings or hearings.

No later than nine months before the expiration of an approved waiver, pilot program, or demonstration project, the state agency must notify JCF of the expiration date and the state agency's intent regarding renewal. If the state agency intends to renew the waiver, program, or project without substantive changes to it, the state agency is not required to comply with all of the procedures specified in the bill for renewal and instead may submit the proposed renewal request for review by JCF under its passive review process.

The chairpersons of JCF may delegate some of the committee's responsibilities under the bill to a legislative standing committee of appropriate subject matter jurisdiction under terms specified by the chairpersons. If JCF determines that the state agency has not made sufficient progress or is not acting in accordance with the enacted legislation requiring the submission of the request, JCF may reduce from moneys allocated for state operations or administrative functions the agency's appropriation or expenditure authority or change the authorized level of full-time equivalent positions for the agency related to the program for which the request is required to be submitted.

40.

This bill requires by statute DHS to implement the BadgerCare Reform waiver as it relates to childless adults as approved by the federal Department of Health and Human Services effective October 31, 2018. The 2015-17 and 2017-19 biennial budget acts required DHS to submit a waiver request to the federal DHHS authorizing DHS to take certain actions including imposing premiums on, requiring a health risk assessment of, and time-limiting eligibility for recipients of BadgerCare Plus under the childless adults demonstration project waiver. Effective October 31, 2018, the federal DHHS approved the BadgerCare Reform waiver

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amendment and extension with some modifications from the request. The bill incorporates certain provisions of the federal approval into the statutes.

Under the bill, DHS must require childless adults demonstration project recipients who are at least 19 years of age but have not attained the age of 50 to participate in, document, and report 80 hours per calendar month of community engagement activities, unless they are exempt or have a temporary exemption for good cause. Qualifying community engagement activities are specified in the bill and include working for money, goods, or services, or as a volunteer, and participating in a program such as the FoodShare employment and training program or Wisconsin Works. DHS must require a recipient, as a condition of eligibility, to complete a health risk assessment and, if the recipient's household income exceeds 50 percent of the federal poverty line, pay a monthly premium of \$8 per household with some limited exceptions. The household premium is reduced if a recipient reports on the health risk assessment that he or she is not engaging in certain behaviors that increase health risks or is actively managing certain unhealthy behaviors. DHS must disenroll a recipient for six months if the recipient does not pay the required premium or, if the recipient is not exempt, does not participate for 48 aggregate months in the community engagement activity.

DHS must charge recipients an \$8 copayment for nonemergency use of the emergency department and must comply with other requirements imposed by the federal DHHS in its waiver approval effective October 31, 2018. The requirements in the bill must end no sooner than December 31, 2023, and the bill prohibits withdrawal of the requirements and DHS from requesting withdrawal, suspension, or termination of the childless adults demonstration project requirements before that date unless the legislation has been enacted specifically allowing for withdrawal, suspension, or termination.

The bill requires DHS to implement the childless adults BadgerCare Reform waiver by no later than November 1, 2019. If DHS is unable to fully implement the project reforms by November 1, 2019, DHS may request from JCF an extension not to exceed 90 days in a written submission that includes a report on the progress toward implementation of the project and the reason an extension is needed, which JCF will review under its 14-day passive review process. Similar to other waiver implementation requirements, if JCF determines that DHS has not complied with the implementation deadline, has not made sufficient progress in implementing the BadgerCare Reform waiver, or has not complied other requirements under this bill relating to approved waiver implementation, JCF may reduce from moneys allocated for state operations or administrative functions DHS's appropriation or expenditure authority, whichever is applicable, or change the authorized level of full-time equivalent positions for DHS related to the Medical Assistance program.

41.

This bill incorporates the provisions of chapter DHS 38 of the Wisconsin Administrative Code into the statutes. 2015 Wisconsin Act 55, the biennial budget act for the 2015-16 legislative session, required DHS to promulgate rules to develop and implement a screening, testing, and treatment policy and then to screen and test for illegal use of a controlled substance and treat for substance abuse able-bodied

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adults who seek to participate in the FoodShare program's employment and training program known as FSET. DHS promulgated chapter DHS 38, Wis. Adm. Code, regarding substance abuse screening, testing, and treatment for certain department employment and training programs. The bill incorporates the specifications and requirements of that DHS rule into the statutes, requires implementation of the screening, testing, and treatment by October 1, 2019, and requires DHS to follow requirements in this bill as if the screening, testing, and treatment is an approved waiver. In summary, the provisions of the rule and the bill require an agency that is administering FSET to require able-bodied adults who are subject to a work requirement to participate in FoodShare and who seek to participate in FSET to fulfill that work requirement to undergo screening for use of a controlled substance without a prescription, testing for use of a controlled substance in certain circumstances, and treatment, if applicable, for use of the controlled substance in order to be eligible to participate in FSET.

42.

2017 Wisconsin Act 138 required the commissioner of insurance to administer a state-based reinsurance program, the Wisconsin Healthcare Stability Plan (known as WIHSP), and allowed the commissioner to request a waiver under federal law to implement the plan. Under current law, WIHSP makes a reinsurance payment to a health insurance carrier if the claims for an individual who is enrolled in a health benefit plan with that carrier exceed a threshold amount in a benefit year. The federal DHHS approved the commissioner's waiver request under specific terms and conditions dated July 29, 2018. The bill requires the commissioner to administer WIHSP in accordance with those specific terms and conditions. The bill prohibits the commissioner from requesting modification, suspension, withdrawal, or termination of the waiver unless legislation has been enacted directing the modification, suspension, withdrawal, or termination. The bill requires the commissioner to complete and submit any reports, provide any information, and participate in any oversight activities required by the federal DHHS to implement and maintain WIHSP. The bill sets the payment parameters for WIHSP as specified by the federal approval for the 2019 benefit year and prohibits the commissioner from changing those payment parameters for the 2019 benefit year.

43.

This bill prohibits DHS from submitting an amendment to the state's Medical Assistance plan or implementing a change to the reimbursement rate for or making a supplemental payment to a provider under the Medical Assistance program without first submitting the proposed state plan amendment, rate change, or payment to JCF. If the state plan amendment, rate change, or payment has an expected fiscal effect of less than \$1,000,000 from all revenue sources over a 12-month period following the implementation date of the amendment, rate change, or payment, then the proposed state plan amendment, rate change, or payment is reviewed under JCF's 14-day, passive review process. If the expected fiscal effect is \$1,000,000 or more from all revenue sources over the 12-month period, DHS may submit the proposed state plan amendment, implement the rate change, or make the payment only upon approval by JCF. DHS is not required, however, to submit a

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proposed rate change or supplemental payment to JCF under the bill if explicit expenditure authority or funding for the specific change or supplemental payment is included in enacted legislation.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 5.02 (6m) (f) of the statutes is amended to read:

2 5.02 (**6m**) (f) An unexpired identification card issued by a university or college
3 in this state that is accredited, as defined in s. 39.30 (1) (d), or by a technical college
4 in this state that is a member of and governed by the technical college system under
5 ch. 38, that contains the date of issuance and signature of the individual to whom it
6 is issued and that contains an expiration date indicating that the card expires no
7 later than 2 years after the date of issuance if the individual establishes that he or
8 she is enrolled as a student at the university or college on the date that the card is
9 presented.

10 **SECTION 2.** 5.02 (12n) of the statutes is created to read:

11 5.02 (**12n**) “Overseas elector” means a U.S. citizen who is residing outside of
12 the United States, who is not disqualified from voting under s. 6.03, who has attained
13 or will attain the age of 18 by the date of an election at which the citizen proposes to
14 vote, who was last domiciled in this state or whose parent was last domiciled in this
15 state immediately prior to the parent’s departure from the United States, and who
16 is not registered to vote or voting in any other state, territory, or possession.

17 **SECTION 3.** 5.02 (15m) of the statutes is created to read:

18 5.02 (**15m**) “Presidential preference primary” means the primary held on the
19 2nd Tuesday in March to express preferences for the person to be the presidential

SENATE BILL 887**SECTION 3**

1 candidate for each party in a year in which electors for president and vice president
2 are to be elected.

3 **SECTION 4.** 5.02 (21) of the statutes is amended to read:

4 5.02 (21) "Spring election" means the election held on the first Tuesday in April
5 to elect judicial, educational and municipal officers, and nonpartisan county officers
6 and sewerage commissioners ~~and to express preferences for the person to be the~~
7 ~~presidential candidate for each party in a year in which electors for president and~~
8 ~~vice president are to be elected.~~

9 **SECTION 5.** 5.05 (13) (c) of the statutes is amended to read:

10 5.05 (13) (c) The commission shall maintain a freely accessible system under
11 which a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined~~
12 ~~in s. 6.34 (1) (b)~~, who casts an absentee ballot may ascertain whether the ballot has
13 been received by the appropriate municipal clerk.

14 **SECTION 6.** 5.05 (13) (d) 1. of the statutes is amended to read:

15 5.05 (13) (d) 1. To permit a military elector, as defined in s. 6.34 (1) (a), or an
16 overseas elector, ~~as defined in s. 6.34 (1) (b)~~, to request a voter registration
17 application or an application for an absentee ballot at any election at which the
18 elector is qualified to vote in this state.

19 **SECTION 7.** 5.60 (8) (am) of the statutes is amended to read:

20 5.60 (8) (am) Except as authorized in s. 5.655, there shall be a separate ballot
21 for each recognized political party filing a certification under s. 8.12 (1), listing the
22 names of all potential candidates of that party determined under s. 8.12 and
23 affording, in addition, an opportunity to the voter to nominate another potential
24 candidate by write-in vote or to vote for an uninstructed delegation to the party
25 convention. The order of presidential candidates on the ballot shall be determined

SENATE BILL 887**SECTION 7**

1 by lot by or under the supervision of the commission. Each voter shall be given the
2 ballots of all the parties participating in the presidential preference vote primary, but
3 may vote on one ballot only.

4 **SECTION 8.** 6.22 (2) (b) of the statutes is amended to read:

5 6.22 (2) (b) A military elector shall make and subscribe to the certification
6 under s. 6.87 (2) before a witness who is an adult ~~U.S. citizen~~.

7 **SECTION 9.** 6.22 (2) (e) of the statutes is amended to read:

8 6.22 (2) (e) A military elector may file an application for an absentee ballot by
9 means of electronic mail or facsimile transmission in the manner prescribed in s. 6.86
10 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the elector
11 an absentee ballot or, if the elector is a military elector, as defined in s. 6.34 (1) (a),
12 and the elector so requests, shall transmit an absentee ballot to the elector by means
13 of electronic mail or facsimile transmission in the manner prescribed in s. 6.87 (3)
14 (d).

15 **SECTION 10.** 6.22 (4) (a) of the statutes is amended to read:

16 6.22 (4) (a) Upon receiving a timely request for an absentee ballot under par.
17 (b) by an individual who qualifies as a military elector, the municipal clerk shall send
18 or, if the individual is a military elector as defined in s. 6.34 (1) (a), shall transmit
19 to the elector upon the elector's request an absentee ballot for all elections that occur
20 in the municipality or portion thereof where the elector resides in the same calendar
21 year in which the request is received, unless the individual otherwise requests.

22 **SECTION 11.** 6.22 (4) (c) of the statutes is amended to read:

23 6.22 (4) (c) A military elector may indicate an alternate address on his or her
24 absentee ballot application. If the elector's ballot is returned as undeliverable prior
25 to the deadline for return of absentee ballots under s. 6.87 (6), and the elector remains

SENATE BILL 887**SECTION 11**

1 eligible to receive absentee ballots under this section, the municipal clerk shall
2 immediately send or, if the elector is a military elector as defined in s. 6.34 (1) (a),
3 transmit an absentee ballot to the elector at the alternate address.

4 **SECTION 12.** 6.24 (2) of the statutes is amended to read:

5 6.24 (2) ELIGIBILITY. An overseas elector ~~under sub. (1)~~ may vote in any election
6 for national office, including the partisan primary and presidential preference
7 primary and any special primary or election. Such elector may not vote in an election
8 for state or local office unless the elector qualifies as a resident of this state under
9 s. 6.10. An overseas elector shall vote in the ward or election district in which the
10 elector was last domiciled or in which the elector's parent was last domiciled prior
11 to departure from the United States.

12 **SECTION 13.** 6.24 (4) (c) of the statutes is amended to read:

13 6.24 (4) (c) Upon receipt of a timely application from an individual who
14 qualifies as an overseas elector and who has registered to vote in a municipality
15 under sub. (3), the municipal clerk of the municipality shall send, or if the individual
16 is an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, shall transmit, an absentee ballot
17 to the individual upon the individual's request for all subsequent elections for
18 national office to be held during the year in which the ballot is requested, except as
19 otherwise provided in this paragraph, unless the individual otherwise requests or
20 until the individual no longer qualifies as an overseas elector of the municipality.
21 The clerk shall not send an absentee ballot for an election if the overseas elector's
22 name appeared on the registration list in eligible status for a previous election
23 following the date of the application but no longer appears on the list in eligible
24 status. The municipal clerk shall ensure that the envelope containing the absentee
25 ballot is clearly marked as not forwardable. If an overseas elector who files an

SENATE BILL 887**SECTION 13**

1 application under this subsection no longer resides at the same address that is
2 indicated on the application form, the elector shall so notify the municipal clerk.

3 **SECTION 14.** 6.24 (4) (d) of the statutes is amended to read:

4 6.24 (4) (d) An overseas elector, regardless of whether the elector qualifies as
5 a resident of this state under s. 6.10, who is not registered may request both a
6 registration form and an absentee ballot at the same time, and the municipal clerk
7 shall send or transmit the ballot automatically if the registration form is received
8 within the time prescribed in s. 6.28 (1). The commission shall prescribe a special
9 certificate form for the envelope in which the absentee ballot for such overseas
10 electors is contained, which shall be substantially similar to that provided under s.
11 6.87 (2). ~~An~~ The overseas elector shall make and subscribe to the special certificate
12 form before a witness who is an adult U.S. citizen.

13 **SECTION 15.** 6.24 (4) (e) of the statutes is amended to read:

14 6.24 (4) (e) An overseas elector, regardless of whether the elector qualifies as
15 a resident of this state under s. 6.10, may file an application for an absentee ballot
16 by means of electronic mail or facsimile transmission in the manner prescribed in s.
17 6.86 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the
18 elector an absentee ballot or, if the elector is an overseas elector, as defined in s. 6.34
19 ~~(1) (b) and the elector~~ so requests, shall transmit an absentee ballot to the elector by
20 means of electronic mail or facsimile transmission in the manner prescribed in s. 6.87
21 (3) (d).

22 **SECTION 16.** 6.25 (1) (b) of the statutes is amended to read:

23 6.25 (1) (b) Any individual who qualifies as an overseas elector ~~under s. 6.24~~
24 ~~(1)~~, regardless of whether the elector qualifies as a resident of this state under s. 6.10,
25 and who transmits an application for an official absentee ballot for an election for

SENATE BILL 887**SECTION 16**

1 national office, including a primary election, no later than the latest time specified
2 for an elector in s. 6.86 (1) (b) may, in lieu of the official ballot, cast a federal write-in
3 absentee ballot prescribed under 42 USC 1973ff-2 for any candidate or for all
4 candidates of any recognized political party for national office listed on the official
5 ballot at that election, if the federal write-in absentee ballot is received by the
6 appropriate municipal clerk no later than the applicable time prescribed in s. 6.87
7 (6).

8 **SECTION 17.** 6.276 (1) of the statutes is amended to read:

9 6.276 (1) In this section, “military elector” and “overseas elector” have has the
10 meanings meaning given in s. 6.34 (1).

11 **SECTION 18.** 6.34 (1) (intro.) and (a) of the statutes are consolidated,
12 renumbered 6.34 (1) and amended to read:

13 6.34 (1) In this section: (a) ~~“Military,~~ “military elector” means a member of a
14 uniformed service on active duty who, by reason of that duty, is absent from the
15 residence where the member is otherwise qualified to vote; a member of the
16 merchant marine, as defined in s. 6.22 (1) (a), who by reason of service in the
17 merchant marine, is absent from the residence where the member is otherwise
18 qualified to vote; or the spouse or dependent of any such member who, by reason of
19 the duty or service of the member, is absent from the residence where the spouse or
20 dependent is otherwise qualified to vote.

21 **SECTION 19.** 6.34 (1) (b) of the statutes is repealed.

22 **SECTION 20.** 6.86 (1) (b) of the statutes is amended to read:

23 6.86 (1) (b) Except as provided in this section, if application is made by mail,
24 the application shall be received no later than 5 p.m. on the 5th day immediately
25 preceding the election. If application is made in person, the application shall be

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1 made no earlier than ~~the opening of business on the 3rd Monday~~ Saturday preceding
2 the election and no later than 7 p.m. on the Friday preceding the election. No
3 application may be received on a legal holiday. An application made in person may
4 only be received Monday to ~~Friday~~ Saturday between the hours of 8 a.m. and 7 p.m.
5 each day. A municipality shall specify the hours in the notice under s. 10.01 (2) (e).
6 The municipal clerk or an election official shall witness the certificate for any
7 in-person absentee ballot cast. Except as provided in par. (c), if the elector is making
8 written application for an absentee ballot at the partisan primary, the general
9 election, the presidential preference primary, or a special election for national office,
10 and the application indicates that the elector is a military elector, as defined in s. 6.34
11 (1), the application shall be received by the municipal clerk no later than 5 p.m. on
12 election day. If the application indicates that the reason for requesting an absentee
13 ballot is that the elector is a sequestered juror, the application shall be received no
14 later than 5 p.m. on election day. If the application is received after 5 p.m. on the
15 Friday immediately preceding the election, the municipal clerk or the clerk's agent
16 shall immediately take the ballot to the court in which the elector is serving as a juror
17 and deposit it with the judge. The judge shall recess court, as soon as convenient,
18 and give the elector the ballot. The judge shall then witness the voting procedure as
19 provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who
20 shall deliver it to the polling place or, in municipalities where absentee ballots are
21 canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application
22 is made under sub. (2) or (2m), the application may be received no later than 5 p.m.
23 on the Friday immediately preceding the election.

24 **SECTION 21.** 6.865 (1) of the statutes is amended to read:

SENATE BILL 887**SECTION 21**

1 6.865 (1) In this section, “military elector” and “overseas elector” have has the
2 meanings meaning given under s. 6.34 (1).

3 **SECTION 22.** 6.87 (2) of the statutes is amended to read:

4 6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place
5 the ballot in an unsealed envelope furnished by the clerk. The envelope shall have
6 the name, official title and post-office address of the clerk upon its face. The other
7 side of the envelope shall have a printed certificate which shall include a space for
8 the municipal clerk or deputy clerk to enter his or her initials indicating that if the
9 absentee elector voted in person under s. 6.86 (1) (ar), the elector presented proof of
10 identification to the clerk and the clerk verified the proof presented. The certificate
11 shall also include a space for the municipal clerk or deputy clerk to enter his or her
12 initials indicating that the elector is exempt from providing proof of identification
13 because the individual is a military elector or an overseas elector who does not
14 qualify as a resident of this state under s. 6.10 or is exempted from providing proof
15 of identification under sub. (4) (b) 2. or 3. The certificate shall be in substantially the
16 following form:

17 [STATE OF

18 County of]

19 or

20 [(name of foreign country and city or other jurisdictional unit)]

21 I, ..., certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false
22 statements, that I am a resident of the [... ward of the] (town) (village) of ..., or of
23 the ... aldermanic district in the city of ..., residing at ...* in said city, the county
24 of ..., state of Wisconsin, and am entitled to vote in the (ward) (election district) at
25 the election to be held on ...; that I am not voting at any other location in this election;

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1 that I am unable or unwilling to appear at the polling place in the (ward) (election
2 district) on election day or have changed my residence within the state from one ward
3 or election district to another later than 28 days before the election. I certify that I
4 exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her)
5 presence and in the presence of no other person marked the ballot and enclosed and
6 sealed the same in this envelope in such a manner that no one but myself and any
7 person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance,
8 could know how I voted.

9 Signed

10 Identification serial number, if any:

11 The witness shall execute the following:

12 I, the undersigned witness, subject to the penalties of s. 12.60 (1) (b), Wis.
13 Stats., for false statements, certify that I am an adult U.S. citizen** and that the
14 above statements are true and the voting procedure was executed as there stated.
15 I am not a candidate for any office on the enclosed ballot (except in the case of an
16 incumbent municipal clerk). I did not solicit or advise the elector to vote for or against
17 any candidate or measure.

18(Name Printed name)

19(Address)***_

20 Signed

21 * — An elector who provides an identification serial number issued under s.
22 6.47 (3), Wis. Stats., need not provide a street address.

23 ** — An individual who serves as a witness for a military elector or an overseas
24 elector voting absentee, regardless of whether the elector qualifies as a resident of

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1 Wisconsin under s. 6.10, Wis. Stats., need not be a U.S. citizen but must be 18 years
2 of age or older.

3 *** — If this form is executed before 2 special voting deputies under s. 6.875 (6),
4 Wis. Stats., both deputies shall witness and sign.

5 **SECTION 23.** 6.87 (3) (d) of the statutes is amended to read:

6 6.87 (3) (d) A municipal clerk shall, if the clerk is reliably informed by a military
7 elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~
8 regardless of whether the elector qualifies as a resident of this state under s. 6.10,
9 of a facsimile transmission number or electronic mail address where the elector can
10 receive an absentee ballot, transmit a facsimile or electronic copy of the elector's
11 ballot to that elector in lieu of mailing under this subsection. An elector may receive
12 an absentee ballot only if the elector is a military elector or an overseas elector ~~under~~
13 ~~s. 6.34 (1)~~ and has filed a valid application for the ballot as provided in s. 6.86 (1).
14 If the clerk transmits an absentee ballot to a military or overseas elector
15 electronically, the clerk shall also transmit a facsimile or electronic copy of the text
16 of the material that appears on the certificate envelope prescribed in sub. (2),
17 together with instructions prescribed by the commission. The instructions shall
18 require the military or overseas elector to make and subscribe to the certification as
19 required under sub. (4) (b) and to enclose the absentee ballot in a separate envelope
20 contained within a larger envelope, that shall include the completed certificate. The
21 elector shall then affix sufficient postage unless the absentee ballot qualifies for
22 mailing free of postage under federal free postage laws and shall mail the absentee
23 ballot to the municipal clerk. Except as authorized in s. 6.97 (2), an absentee ballot
24 received from a military or overseas elector who receives the ballot electronically

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1 shall not be counted unless it is cast in the manner prescribed in this paragraph and
2 sub. (4) and in accordance with the instructions provided by the commission.

3 **SECTION 24.** 6.87 (4) (a) (intro.) and 1. of the statutes are consolidated,
4 renumbered 6.87 (4) (a) and amended to read:

5 6.87 (4) (a) In this subsection: 1. ~~“Military,~~ “military elector” has the meaning
6 given in s. 6.34 (1) ~~(a)~~.

7 **SECTION 25.** 6.87 (4) (a) 2. of the statutes is repealed.

8 **SECTION 26.** 6.87 (4) (b) 1. of the statutes is amended to read:

9 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, ~~the~~ an elector voting
10 absentee, other than a military elector or an overseas elector, shall make and
11 subscribe to the certification before one witness who is an adult U.S. citizen. A
12 military elector or an overseas elector voting absentee, regardless of whether the
13 elector qualifies as a resident of this state under s. 6.10, shall make and subscribe
14 to the certification before one witness who is an adult but who need not be a U.S.
15 citizen. The absent elector, in the presence of the witness, shall mark the ballot in
16 a manner that will not disclose how the elector’s vote is cast. The elector shall then,
17 still in the presence of the witness, fold the ballots so each is separate and so that the
18 elector conceals the markings thereon and deposit them in the proper envelope. If
19 a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that
20 the elector conceals the markings thereon and deposit the ballot in the proper
21 envelope. If proof of residence under s. 6.34 is required and the document enclosed
22 by the elector under this subdivision does not constitute proof of residence under s.
23 6.34, the elector shall also enclose proof of residence under s. 6.34 in the envelope.
24 Except as provided in s. 6.34 (2m), proof of residence is required if the elector is not
25 a military elector or an overseas elector and the elector registered by mail or by

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1 electronic application and has not voted in an election in this state. If the elector
2 requested a ballot by means of facsimile transmission or electronic mail under s. 6.86
3 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an
4 original signature of the elector. The elector may receive assistance under sub. (5).
5 The return envelope shall then be sealed. The witness may not be a candidate. The
6 envelope shall be mailed by the elector, or delivered in person, to the municipal clerk
7 issuing the ballot or ballots. If the envelope is mailed from a location outside the
8 United States, the elector shall affix sufficient postage unless the ballot qualifies for
9 delivery free of postage under federal law. Failure to return an unused ballot in a
10 primary does not invalidate the ballot on which the elector's votes are cast. Return
11 of more than one marked ballot in a primary or return of a ballot prepared under s.
12 5.655 or a ballot used with an electronic voting system in a primary which is marked
13 for candidates of more than one party invalidates all votes cast by the elector for
14 candidates in the primary.

15 **SECTION 27.** 6.88 (1) of the statutes is amended to read:

16 6.88 (1) When an absentee ballot arrives at the office of the municipal clerk,
17 or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it,
18 unopened, in a carrier envelope which shall be securely sealed and endorsed with the
19 name and official title of the clerk, and the words "This envelope contains the ballot
20 of an absent elector and must be opened in the same room where votes are being cast
21 at the polls during polling hours on election day or, in municipalities where absentee
22 ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of
23 absentee ballot canvassers under s. 7.52, stats." If the elector is a military elector,
24 as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~
25 regardless of whether the elector qualifies as a resident of this state under s. 6.10,

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1 and the ballot was received by the elector by facsimile transmission or electronic mail
2 and is accompanied by a separate certificate, the clerk shall enclose the ballot in a
3 certificate envelope and securely append the completed certificate to the outside of
4 the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep
5 the ballot in the clerk's office or at the alternate site, if applicable until delivered, as
6 required in sub. (2).

7 **SECTION 28.** 6.97 (1) of the statutes is amended to read:

8 6.97 (1) Whenever any individual who is required to provide proof of residence
9 under s. 6.34 in order to be permitted to vote appears to vote at a polling place and
10 cannot provide the required proof of residence, the inspectors shall offer the
11 opportunity for the individual to vote under this section. Whenever any individual,
12 other than a military elector, as defined in s. 6.34 (1) (a), ~~or~~, an overseas elector, as
13 ~~defined in s. 6.34 (1) (b)~~, or an elector who has a confidential listing under s. 6.47 (2),
14 appears to vote at a polling place and does not present proof of identification under
15 s. 6.79 (2), whenever required, the inspectors or the municipal clerk shall similarly
16 offer the opportunity for the individual to vote under this section. If the individual
17 wishes to vote, the inspectors shall provide the elector with an envelope marked
18 "Ballot under s. 6.97, stats." on which the serial number of the elector is entered and
19 shall require the individual to execute on the envelope a written affirmation stating
20 that the individual is a qualified elector of the ward or election district where he or
21 she offers to vote and is eligible to vote in the election. The inspectors shall, before
22 giving the elector a ballot, write on the back of the ballot the serial number of the
23 individual corresponding to the number kept at the election on the poll list or other
24 list maintained under s. 6.79 and the notation "s. 6.97". If voting machines are used
25 in the municipality where the individual is voting, the individual's vote may be

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1 received only upon an absentee ballot furnished by the municipal clerk which shall
2 have the corresponding number from the poll list or other list maintained under s.
3 6.79 and the notation "s. 6.97" written on the back of the ballot by the inspectors
4 before the ballot is given to the elector. When receiving the individual's ballot, the
5 inspectors shall provide the individual with written voting information prescribed
6 by the commission under s. 7.08 (8). The inspectors shall indicate on the list the fact
7 that the individual is required to provide proof of residence or proof of identification
8 under s. 6.79 (2) but did not do so. The inspectors shall notify the individual that he
9 or she may provide proof of residence or proof of identification to the municipal clerk
10 or executive director of the municipal board of election commissioners. The
11 inspectors shall also promptly notify the municipal clerk or executive director of the
12 name, address, and serial number of the individual. The inspectors shall then place
13 the ballot inside the envelope and place the envelope in a separate carrier envelope.

14 **SECTION 29.** 7.08 (2) (d) of the statutes is amended to read:

15 7.08 (2) (d) As soon as possible after the last ~~Tuesday in January~~ December 15
16 of each year preceding the year in which there is a presidential election, the
17 commission shall transmit to each county clerk a certified list of candidates for
18 president who have qualified to have their names appear on the presidential
19 preference primary ballot.

20 **SECTION 30.** 7.15 (1) (cm) of the statutes is amended to read:

21 7.15 (1) (cm) Prepare official absentee ballots for delivery to electors requesting
22 them, and except as provided in this paragraph, send an official absentee ballot to
23 each elector who has requested a ballot by mail, and to each military elector, as
24 defined in s. 6.34 (1) (a), and overseas elector, ~~as defined in s. 6.34 (1) (b)~~, who has
25 requested a ballot by mail, electronic mail, or facsimile transmission, no later than

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1 the 47th day before each partisan primary and general election and no later than the
2 21st day before each other primary and election if the request is made before that
3 day; otherwise, the municipal clerk shall send or transmit an official absentee ballot
4 within one business day of the time the elector's request for such a ballot is received.
5 The clerk shall send or transmit an absentee ballot for the presidential preference
6 primary to each elector who has requested that ballot no later than the 47th day
7 before the presidential preference primary if the request is made before that day, or,
8 if the request is not made before that day, within one business day of the time the
9 request is received. For purposes of this paragraph, "business day" means any day
10 from Monday to Friday, not including a legal holiday under s. 995.20.

11 **SECTION 31.** 7.15 (1) (j) of the statutes is amended to read:

12 7.15 (1) (j) Send an absentee ballot automatically to each elector and send or
13 transmit an absentee ballot to each military elector, as defined in s. 6.34 (1) (a), and
14 each overseas elector, ~~as defined in s. 6.34 (1) (b)~~, making an authorized request
15 therefor in accordance with s. 6.22 (4), 6.24 (4) (e), or 6.86 (2) or (2m).

16 **SECTION 32.** 8.12 (1) of the statutes is amended to read:

17 8.12 (1) SELECTION OF NAMES FOR BALLOT. (a) No later than 5 p.m. on ~~the 2nd~~
18 ~~Tuesday in December~~ November 15 of the year before each year in which electors for
19 president and vice president are to be elected, the state chairperson of each
20 recognized political party listed on the official ballot at the last gubernatorial election
21 whose candidate for governor received at least 10 percent of the total votes cast for
22 that office may certify to the commission that the party will participate in the
23 presidential preference primary. For each party filing such a certification, the voters
24 of this state shall at the spring election be given an opportunity to express their
25 preference for the person to be the presidential candidate of that party.

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1 (b) ~~On the first Tuesday in January~~ No later than December 1 of each year, ~~or~~
2 ~~the next day if Tuesday is a holiday,~~ preceding the year in which electors for president
3 and vice president are to be elected, there shall be convened in the capitol a
4 committee consisting of, for each party filing a certification under this subsection,
5 the state chairperson of that state party organization or the chairperson's designee,
6 one national committeeman and one national committeewoman designated by the
7 state chairperson; the speaker and the minority leader of the assembly or their
8 designees, and the president and the minority leader of the senate or their designees.
9 All designations shall be made in writing to the commission. This committee shall
10 organize by selecting an additional member who shall be the chairperson and shall
11 determine, and certify to the commission, no later than on the Friday following the
12 date on which the committee convenes under this paragraph, the names of all
13 candidates of the political parties represented on the committee for the office of
14 president of the United States. The committee shall place the names of all
15 candidates whose candidacy is generally advocated or recognized in the national
16 news media throughout the United States on the ballot, and may, in addition, place
17 the names of other candidates on the ballot. The committee shall have sole discretion
18 to determine that a candidacy is generally advocated or recognized in the national
19 news media throughout the United States.

20 (c) No later than 5 p.m. on ~~the last Tuesday in January~~ December 15 of each
21 year preceding a presidential election year, any person seeking the nomination by
22 the national convention of a political party filing a certification under this subsection
23 for the office of president of the United States, or any committee organized in this
24 state on behalf of and with the consent of such person, may submit to the commission
25 a petition to have the person's name appear on the presidential preference ballot.

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1 The petition may be circulated no sooner than ~~the first Tuesday in January of such~~
2 ~~year, or the next day if Tuesday is a holiday, December 1 of the year preceding the~~
3 ~~presidential election year~~ and shall be signed by a number of qualified electors equal
4 in each congressional district to not less than 1,000 signatures nor more than 1,500
5 signatures. The form of the petition shall conform to the requirements of s. 8.40. All
6 signers on each separate petition paper shall reside in the same congressional
7 district.

8 (d) The commission shall forthwith contact each person whose name has been
9 placed in nomination under par. (b) and notify him or her that his or her name will
10 appear on the Wisconsin presidential preference primary ballot unless he or she files,
11 no later than 5 p.m. on ~~the last Tuesday in January of such year~~ December 15 of the
12 ~~year preceding a presidential election year,~~ with the commission, a disclaimer
13 stating without qualification that he or she is not and does not intend to become a
14 candidate for the office of president of the United States at the forthcoming
15 presidential election. The disclaimer may be filed with the commission by certified
16 mail, telegram, or in person.

17 **SECTION 33.** 8.12 (3) of the statutes is amended to read:

18 8.12 (3) REPORTING OF RESULTS. No later than ~~May 15~~ March 31 following the
19 presidential preference primary, the commission shall notify each state party
20 organization chairperson under sub. (1) (b) of the results of the presidential
21 preference primary within the state and within each congressional district.

22 **SECTION 34.** 10.02 (3) (b) 3. of the statutes is amended to read:

23 10.02 (3) (b) 3. When casting a presidential preference primary vote, the elector
24 shall select the party ballot of his or her choice and make a cross (X) next to or depress
25 the button or lever next to the candidate's name for whom he or she intends to vote

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1 or shall, in the alternative, make a cross (X) next to or depress the button or lever next
2 to the words "Uninstructed delegation", or shall write in the name of his or her choice
3 for a candidate.

4 **SECTION 35.** 10.06 (2) (d) of the statutes is amended to read:

5 10.06 (2) (d) On the Monday preceding the spring primary, when held, the
6 county clerk shall publish a type B notice. In a year in which the presidential
7 preference primary is held, the county clerk shall also publish notice of the
8 presidential preference primary.

9 **SECTION 36.** 10.06 (2) (g) of the statutes is amended to read:

10 10.06 (2) (g) On the Monday preceding the spring election, the county clerk
11 shall publish a type B notice containing the same information prescribed in par. (a).
12 ~~In a year in which the presidential preference primary is held, the county clerk shall~~
13 ~~also publish notice of the presidential preference primary.~~ In addition, the county
14 clerk shall publish a type C notice on the Monday preceding the spring election for
15 all state and county referenda to be voted upon by electors of the county.

16 **SECTION 37.** 11.0101 (32) of the statutes is amended to read:

17 11.0101 (32) "Spring election" means the election held on the first Tuesday in
18 April to elect judicial, educational, and municipal officers, and nonpartisan county
19 officers and sewerage commissioners, ~~and to express preferences for the person to be~~
20 ~~the presidential candidate for each political party in a year in which electors for~~
21 ~~president and vice president are to be elected.~~

22 **SECTION 38.** 13.103 of the statutes is created to read:

23 **13.103 Joint committee on finance; state operations expenditures**
24 **report. (1)** In this section:

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1 (a) "State agency" means any office, department, or independent agency in the
2 executive branch of state government, other than the Board of Regents of the
3 University of Wisconsin System.

4 (b) "State operations" means all purposes except aids to individuals and
5 organizations and local assistance.

6 (2) Quarterly, beginning in April 2019, each state agency shall submit a report
7 to the joint committee on finance listing all state agency expenditures for state
8 operations in the preceding calendar quarter. The report shall specifically detail all
9 expenditures for administrative supplies and services that are made at the
10 discretion of or to be used by heads of state agencies, secretaries, deputy secretaries,
11 assistant deputy secretaries, and executive assistants.

12 **SECTION 39.** 13.124 of the statutes is created to read:

13 **13.124 Legal representation.** (1) (a) The speaker of the assembly, in his or
14 her sole discretion, may authorize a representative to the assembly or assembly
15 employee who requires legal representation to obtain legal counsel other than from
16 the department of justice, with the cost of representation paid from the appropriation
17 under s. 20.765 (1) (a), if the acts or allegations underlying the action are arguably
18 within the scope of the representative's or employee's duties. The speaker shall
19 approve all financial costs and terms of representation.

20 (b) The speaker of the assembly, in his or her sole discretion, may obtain legal
21 counsel other than from the department of justice, with the cost of representation
22 paid from the appropriation under s. 20.765 (1) (a), in any action in which the
23 assembly is a party or in which the interests of the assembly are affected, as
24 determined by the speaker. The speaker shall approve all financial costs and terms
25 of representation.

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1 **(2)** (a) The senate majority leader, in his or her sole discretion, may authorize
2 a senator or senate employee who requires legal representation to obtain legal
3 counsel other than from the department of justice, with the cost of representation
4 paid from the appropriation under s. 20.765 (1) (b), if the acts or allegations
5 underlying the action are arguably within the scope of the senator's or employee's
6 duties. The senate majority leader shall approve all financial costs and terms of
7 representation.

8 (b) The senate majority leader, in his or her sole discretion, may obtain legal
9 counsel other than from the department of justice, with the cost of representation
10 paid from the appropriation under s. 20.765 (1) (b), in any action in which the senate
11 is a party or in which the interests of the senate are affected, as determined by the
12 senate majority leader. The senate majority leader shall approve all financial costs
13 and terms of representation.

14 **(3)** (a) The cochairpersons of the joint committee on legislative organization,
15 in their sole discretion, may authorize an employee of a legislative service agency, as
16 defined in s. 13.90 (1m) (a), who requires legal representation to obtain legal counsel
17 other than from the department of justice, with the cost of representation paid from
18 the appropriation under s. 20.765 (1) (a) or (b), as determined by the cochairpersons,
19 if the acts or allegations underlying the action are arguably within the scope of the
20 employee's duties. The cochairpersons shall approve all financial costs and terms of
21 representation.

22 (b) The cochairpersons of the joint committee on legislative organization, in
23 their sole discretion, may obtain legal counsel other than from the department of
24 justice, with the cost of representation paid from the appropriation under s. 20.765
25 (1) (a) or (b), as determined by the cochairpersons, in any action in which the

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1 legislature is a party or in which the interests of the legislature are affected, as
2 determined by the cochairpersons. The cochairpersons shall approve all financial
3 costs and terms of representation.

4 **SECTION 40.** 13.127 of the statutes is created to read:

5 **13.127 Advice and consent of the senate.** Any individual nominated by the
6 governor or another state officer or agency, and with the advice and consent of the
7 senate appointed, to any office or position may not hold the office or position, be
8 nominated again for the office or position, or perform any duties of the office or
9 position during the legislative session biennium if the individual's confirmation for
10 the office or position is rejected by the senate.

11 **SECTION 41.** 13.365 of the statutes is created to read:

12 **13.365 Intervention.** Pursuant to s. 803.09 (2m), when a party to an action
13 challenges in state or federal court the constitutionality of a statute, facially or as
14 applied, or challenges a statute as violating or preempted by federal law, as part of
15 a claim or affirmative defense:

16 **(1)** The committee on assembly organization may intervene at any time in the
17 action on behalf of the assembly. The committee on assembly organization may
18 obtain legal counsel other than from the department of justice, with the cost of
19 representation paid from the appropriation under s. 20.765 (1) (a), to represent the
20 assembly in any action in which the assembly intervenes.

21 **(2)** The committee on senate organization may intervene at any time in the
22 action on behalf of the senate. The committee on senate organization may obtain
23 legal counsel other than from the department of justice, with the cost of
24 representation paid from the appropriation under s. 20.765 (1) (b), to represent the
25 senate in any action in which the senate intervenes.

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1 **(3)** The joint committee on legislative organization may intervene at any time
2 in the action on behalf of the state. The joint committee on legislative organization
3 may obtain legal counsel other than from the department of justice, with the cost of
4 representation paid from the appropriation under s. 20.765 (1) (a) or (b), as
5 determined by the cochairpersons, to represent the state in any action in which the
6 joint committee on legislative organization intervenes.

7 **SECTION 42.** 13.48 (24m) of the statutes is created to read:

8 **13.48 (24m)** REPAYMENT OF PRINCIPAL ON SHORT-TERM COMMERCIAL PAPER. (a)
9 *Definition.* In this subsection, “commercial paper program” means a program
10 authorized by the building commission for the issuance of short-term, general
11 obligation debt in lieu of long-term, general obligation debt.

12 (b) *Amortization schedule required.* For each commercial paper program, the
13 building commission shall establish an amortization schedule for the repayment of
14 principal on debt issued under the program so that a portion of the principal amount
15 of each debt is retired annually over the life of the improvement or asset to which the
16 debt is related. The commission shall provide each amortization schedule
17 established under this paragraph to the joint committee on finance.

18 (c) *Schedule modification.* An amortization schedule established under par. (b)
19 may not be modified except as follows:

20 1. Before the building commission modifies the amortization schedule, the
21 commission shall notify the joint committee on finance in writing of the commission’s
22 intention to modify the amortization schedule. The notice shall describe each
23 modification and the reasons for making the modification.

24 2. If, within 14 working days after the date of the building commission’s notice
25 under subd. 1., the cochairpersons of the joint committee on finance do not notify the

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1 commission that the committee has scheduled a meeting to review the commission's
2 proposal, the commission may make each modification as proposed in the notice. If,
3 within 14 working days after the date of the commission's notice under subd. 1., the
4 cochairpersons of the committee notify the commission that the committee has
5 scheduled a meeting to review the commission's proposal, the commission may make
6 each proposed modification only upon approval of the committee.

7 **SECTION 43.** 13.56 (2) of the statutes is amended to read:

8 13.56 (2) PARTICIPATION IN CERTAIN PROCEEDINGS. The cochairpersons of the joint
9 committee for review of administrative rules or their designated agents shall accept
10 service made under ss. 227.40 (5) and 806.04 (11). If the committee determines that
11 the legislature should be represented in the proceeding, it shall request the joint
12 committee on legislative organization to ~~designate the legislature's representative~~
13 ~~for intervene in the proceeding as provided under s. 806.04 (11)~~. The costs of
14 participation in the proceeding shall be paid equally from the appropriations under
15 s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice
16 shall be paid from the appropriation under s. 20.455 (1) (d).

17 **SECTION 44.** 13.90 (2) of the statutes is amended to read:

18 13.90 (2) The cochairpersons of the joint committee on legislative organization
19 or their designated agent shall accept service made under s. ~~ss.~~ 806.04 (11) and
20 893.825 (2). If the committee, the senate organization committee, or the assembly
21 organization committee, determines that the legislature should ~~be represented~~
22 intervene in the proceeding, that committee shall designate the legislature's
23 representative for the proceeding. as provided under s. 803.09 (2m), the assembly
24 shall represent the assembly, the senate shall represent the senate, and the joint
25 committee on legislative organization shall represent the state. In an action

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1 involving the constitutionality of a statute, or challenging a statute as violating or
2 preempted by federal law, if the joint committee on legislative organization
3 determines at any time that the interests of the state will be best represented by
4 special counsel appointed by the legislature, it shall appoint special counsel to
5 represent state defendants and act instead of the attorney general and the attorney
6 general may not participate in the action. Special counsel appointed under this
7 subsection shall have the powers of the attorney general with respect to the litigation
8 to which special counsel has been appointed. The costs of participation in the
9 proceeding shall be paid equally from the appropriations under s. 20.765 (1) (a) and
10 (b), except that such costs incurred by the department of justice shall be paid from
11 the appropriation under s. 20.455 (1) (d).

12 **SECTION 45.** 13.90 (3) of the statutes is renumbered 13.90 (3) (c) and amended
13 to read:

14 13.90 (3) (c) The joint committee on legislative organization shall assign office
15 space for legislative offices and the offices of the legislative service agencies as
16 defined in sub. (1m). The joint committee may assign any space in the capitol not
17 reserved for other uses under s. 16.835. Except as provided in ss. 13.09 (6) and 13.45
18 (4) (c), the joint committee may locate any legislative office or the office of any
19 legislative service agency outside the capitol at another suitable building in the city
20 of Madison.

21 **SECTION 46.** 13.90 (3) (a) and (b) of the statutes are created to read:

22 13.90 (3) (a) In this subsection, “legislative service agency” has the meaning
23 given in sub. (1m).

SENATE BILL 887**SECTION 46**

1 (b) The cochairpersons of the joint committee on legislative organization shall
2 lease or acquire office space for legislative offices or legislative service agencies under
3 par. (c).

4 **SECTION 47.** 13.91 (1) (c) of the statutes is amended to read:

5 13.91 (1) (c) Perform the functions prescribed in ~~s. 227.15 for the review and~~
6 ~~resolution of problems~~ ch. 227 relating to administrative rules and guidance
7 documents.

8 **SECTION 48.** 15.07 (1) (b) 24. of the statutes is created to read:

9 15.07 (1) (b) 24. The 6 members of the group insurance board appointed under
10 s. 15.165 (2) (j).

11 **SECTION 49.** 15.165 (2) of the statutes is renumbered 15.165 (2) (intro) and
12 amended to read:

13 15.165 (2) GROUP INSURANCE BOARD. (intro.) There is created in the department
14 of employee trust funds a group insurance board. The board shall consist of the
15 following members:

16 (a) The governor, the or his or her designee.

17 (b) The attorney general, the or his or her designee.

18 (c) The secretary of administration, the director of the office of state
19 employment relations, and the or his or her designee.

20 (e) The commissioner of insurance or their designees, and 6 his or her designee.

21 (j) Six persons appointed for 2-year terms, of whom one shall be an insured
22 participant in the Wisconsin Retirement System who is not a teacher, one shall be
23 an insured participant in the Wisconsin Retirement System who is a teacher, one
24 shall be an insured participant in the Wisconsin Retirement System who is a retired
25 employee, one shall be an insured employee of a local unit of government, and one

SENATE BILL 887**SECTION 49**

1 shall be the chief executive or a member of the governing body of a local unit of
2 government that is a participating employer in the Wisconsin Retirement System.

3 **SECTION 50.** 15.165 (2) (d) and (f) to (i) of the statutes are created to read:

4 15.165 (2) (d) The administrator of the division of personnel management in
5 the department of administration or his or her designee.

6 (f) One individual appointed by the speaker of the assembly.

7 (g) One individual appointed by the minority leader of the assembly.

8 (h) One individual appointed by the majority leader of the senate.

9 (i) One individual appointed by the minority leader of the senate.

10 **SECTION 51.** 16.42 (5) of the statutes is created to read:

11 16.42 (5) (a) In this subsection, "fee" means any amount of money other than
12 a tax that an agency charges a person other than a governmental entity.

13 (b) Each agency required to submit a budget request under sub. (1) shall
14 include with its request a report that lists each fee the agency is required or
15 otherwise authorized to charge and that includes all of the following:

16 1. The amount of each fee, or, if a fee does not have a fixed amount, the method
17 of calculating the fee.

18 2. An identification of the agency's statutory authority to charge each fee.

19 3. A statement whether or not the agency currently charges the fee.

20 4. A description of whether and how each fee has increased or decreased since
21 the agency was first authorized to charge the fee.

22 5. Any recommendation the agency has concerning each fee.

23 **SECTION 52.** 16.84 (2m) of the statutes is created to read:

24 16.84 (2m) Send notice to the joint committee on legislative organization of any
25 proposed changes to security at the capitol, including the posting of a firearm

SENATE BILL 887**SECTION 52**

1 restriction under s. 943.13 (1m) (c) 2. or 4. If, within 14 working days after the date
2 of the notice, the cochairpersons of the joint committee on legislative organization do
3 not notify the department that the committee has scheduled a meeting to review the
4 department's proposal, the department may implement the changes as proposed in
5 the notice. If, within 14 working days after the date of the department's notice, the
6 cochairpersons of the committee notify the department that the committee has
7 scheduled a meeting to review the department's proposal, the department may
8 implement the proposed changes only upon approval of the committee.

9 **SECTION 53.** 16.84 (5) (d) of the statutes is repealed.

10 **SECTION 54.** 16.973 (15) of the statutes is created to read:

11 16.973 (15) By October 1 of each year, submit to the joint committee on finance
12 and the legislature under s. 13.172 (2) a report on the administration of the
13 information technology and communication services self-funded portal. The report
14 shall include the following information regarding the portal for the immediately
15 preceding fiscal year:

16 (a) A financial statement of state revenues and expenditures.

17 (b) A list of services available through the portal, identifying services added
18 since the previous reporting period.

19 (c) Fees charged for each service available through the portal.

20 (d) The activity level of each service available through the portal.

21 (e) Any other information the department determines to be appropriate to
22 include.

23 **SECTION 55.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
24 insert the following amounts for the purposes indicated:

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SECTION 55

2017-18

2018-19

1 **20.445 Workforce development, department of**

2 (1) WORKFORCE DEVELOPMENT

3 (bz) Career and technical education

4 incentive grants GPR A -0- 3,500,000

5 (cg) Technical education equipment

6 grants GPR A -0- 500,000

7 (dg) Teacher development program

8 grants GPR A -0- -0-

9 (dr) Apprenticeship programs

GPR A -0- 225,000

10 (e) Local youth apprenticeship

11 grants GPR A -0- 2,233,700

12 (fg) Employment transit assistance

13 grants GPR A -0- 464,800

14 (fm) Youth summer jobs programs

GPR A -0- 422,400

15 **SECTION 56.** 20.395 (2) (fq) of the statutes is repealed.16 **SECTION 57.** 20.445 (1) (b) of the statutes is amended to read:17 20.445 (1) (b) *Workforce training; programs, grants, and services.* ~~As a~~18 ~~continuing appropriation, the~~ The amounts in the schedule for the local youth19 ~~apprenticeship grants under s. 106.13 (3m), youth summer jobs programs under s.~~20 ~~106.18, employment transit assistance grants under s. 106.26, workforce training~~21 ~~programs, grants, and services under s. 106.27 (1), (1g), (1j), and (1r), teacher~~22 ~~development program grants under s. 106.272, career and technical education~~

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1 ~~incentive grants under s. 106.273 (3), technical education equipment grants under~~
2 ~~s. 106.275, and apprentice programs under subch. I of ch. 106.~~

3 **SECTION 58.** 20.445 (1) (bz) of the statutes is created to read:

4 20.445 (1) (bz) *Career and technical education incentive grants.* The amounts
5 in the schedule for the career and technical education incentive grants under s.
6 106.273 (3).

7 **SECTION 59.** 20.445 (1) (cg) of the statutes is created to read:

8 20.445 (1) (cg) *Technical education equipment grants.* The amounts in the
9 schedule for the technical education equipment grants under s. 106.275.

10 **SECTION 60.** 20.445 (1) (dg) of the statutes is created to read:

11 20.445 (1) (dg) *Teacher development program grants.* The amounts in the
12 schedule for the teacher development program grants under s. 106.272.

13 **SECTION 61.** 20.445 (1) (dr) of the statutes is created to read:

14 20.445 (1) (dr) *Apprenticeship programs.* The amounts in the schedule for the
15 apprentice programs under subch. I of ch. 106.

16 **SECTION 62.** 20.445 (1) (e) of the statutes is created to read:

17 20.445 (1) (e) *Local youth apprenticeship grants.* The amounts in the schedule
18 for local youth apprenticeship grants under s. 106.13 (3m).

19 **SECTION 63.** 20.445 (1) (fg) of the statutes is created to read:

20 20.445 (1) (fg) *Employment transit assistance grants.* The amounts in the
21 schedule for the employment transit assistance grants under s. 106.26.

22 **SECTION 64.** 20.445 (1) (fm) of the statutes is created to read:

23 20.445 (1) (fm) *Youth summer jobs programs.* The amounts in the schedule for
24 youth summer jobs programs in 1st class cities under s. 106.18.

25 **SECTION 65.** 20.455 (1) (gh) of the statutes is amended to read:

SENATE BILL 887**SECTION 65**

1 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
2 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3),
3 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the
4 expenses of investigation and prosecution of violations, including attorney fees, and
5 for expenses related to s. 165.055 (3).

6 **SECTION 66.** 20.455 (2) (gb) of the statutes is amended to read:

7 20.455 (2) (gb) *Gifts and grants.* The amounts in the schedule to carry out the
8 purposes for which gifts and grants are made and received. All moneys received from
9 gifts and grants, other than moneys received for and credited to another
10 appropriation account under this subsection, ~~to carry out the purposes for which~~
11 ~~made and received~~ shall be credited to this appropriation account.

12 **SECTION 67.** 20.455 (3) (g) of the statutes is amended to read:

13 20.455 (3) (g) *Gifts, grants and proceeds.* The amounts in the schedule to carry
14 out the purposes for which gifts and grants are made and collected. All moneys
15 received from gifts and grants and all proceeds from services, conferences, and sales
16 of publications and promotional materials ~~to carry out the purposes for which made~~
17 ~~or collected~~, except as provided in sub. (2) (gm) and (gp) and to transfer to s. 20.505
18 (1) (kg), at the discretion of the attorney general, an amount not to exceed \$98,300
19 annually, shall be credited to this appropriation account.

20 **SECTION 68.** 20.940 of the statutes is created to read:

21 **20.940 Legislative authorization and oversight of requests to federal**
22 **government.** (1) DEFINITION. In this section, “state agency” means any office,
23 department, or independent agency in the executive branch of state government,
24 other than the Board of Regents of the University of Wisconsin System.

SENATE BILL 887**SECTION 68**

1 **(2) LEGISLATIVE AUTHORIZATION REQUIRED.** A state agency may not submit a
2 request to a federal agency for a waiver or a renewal, modification, withdrawal,
3 suspension, or termination of a waiver of federal law or rules or for authorization to
4 implement a pilot program or demonstration project unless legislation has been
5 enacted specifically directing the submission of the request for a waiver, renewal,
6 modification, withdrawal, suspension, termination, or authorization.

7 **(3) LEGISLATIVE OVERSIGHT OF REQUESTS TO FEDERAL AGENCIES.** If submission to
8 a federal agency of a request for a waiver or renewal, modification, withdrawal,
9 suspension, or termination of a waiver of federal law or rules or for authorization to
10 implement a pilot program or demonstration project is required in legislation
11 enacted on or after January 1, 2011, the state agency that is required to submit the
12 request shall do all of the following that apply:

13 (a) When the request has not been submitted to the applicable federal agency,
14 do all of the following:

15 1. Beginning 60 days after the enactment of the legislation requiring the
16 request or March 1, 2019, whichever is later, submit to the joint committee on finance
17 an implementation plan describing the state agency's plan for submitting the
18 request including an expected timeline for submitting the request in which the
19 submission date is no later than 90 days after submission of the implementation plan
20 under this subdivision. If the state agency is unable to submit the request by the date
21 specified in the implementation plan, the state agency may request from the joint
22 committee on finance an extension not to exceed 90 days in a written submission that
23 includes a report on the progress toward submission of the request and the reason
24 an extension is needed. If the cochairpersons of the joint committee on finance do not
25 notify the state agency within 14 working days after the date of the request for an

SENATE BILL 887**SECTION 68**

1 extension under this subdivision that the committee has scheduled a meeting for the
2 purpose of reviewing the extension request, the extension is considered granted. If,
3 within 14 working days after the date of the request for an extension under this
4 subdivision, the cochairpersons of the committee notify the state agency that the
5 committee has scheduled a meeting for the purpose of reviewing the extension
6 request, the state agency may consider the extension granted only upon approval by
7 the committee. No more than 3 90-day extensions may be granted under this
8 subdivision.

9 2. When the state agency has finalized its proposed request before submitting
10 the request to the federal agency, submit the proposed request to the joint committee
11 on finance for approval by the committee. The state agency may submit the proposed
12 request to the appropriate federal agency only upon approval by the committee. The
13 procedures under s. 13.10 do not apply to this subdivision.

14 (b) When the request has been submitted to the applicable federal agency but
15 has not been denied or approved by that federal agency, do all of the following:

16 1. Contact no less frequently than biweekly the federal agency considering the
17 request to continue negotiations in furtherance of approval of the request.

18 2. Beginning 30 days after the date of submission of the request to the federal
19 agency or March 1, 2019, whichever is later, and monthly thereafter, submit to the
20 joint committee on finance a progress report on negotiations with the federal agency
21 toward approval of the request. The state agency shall request from the federal
22 agency a description in writing of any portions of the request that the federal agency
23 has stated will not be approved and reasons for not approving. The state agency shall
24 include in its monthly report under this subdivision any written description from the

SENATE BILL 887**SECTION 68**

1 federal agency regarding any portion of the request that the federal agency has
2 stated will not be approved.

3 3. Beginning 90 days after the date of submission of the request to the federal
4 agency, or March 1, 2019, whichever is later, and quarterly thereafter, make
5 available to the joint committee on finance a representative of the state agency to
6 brief the committee or provide testimony at a committee hearing at the committee's
7 request. The state agency shall ensure that at least one representative of the state
8 agency appearing in person before the committee has sufficient personal knowledge
9 of the negotiations and progress toward approval of the request to respond to
10 inquiries and requests for information by the committee.

11 4. Before final approval of the request by the federal agency, submit the
12 proposed approval as negotiated with the federal agency to the joint committee on
13 finance for approval or disapproval. The joint committee on finance may approve or
14 disapprove but may not modify the proposed approval as negotiated with the federal
15 agency. The state agency may agree to final approval of the request only upon
16 approval by the joint committee on finance. If the joint committee on finance
17 disapproves, the state agency shall withdraw the request or renegotiate the request
18 with the federal agency and resubmit the proposed approval as renegotiated to the
19 joint committee on finance for approval or disapproval. The procedures under s.
20 13.10 do not apply to this subdivision.

21 (c) When the request has been approved in whole or in part by the applicable
22 federal agency but has not been fully implemented by the applicable state agency, do
23 all of the following:

24 1. Beginning 60 days after the date of approval of any portion of the request by
25 the applicable federal agency, or March 1, 2019, whichever is later, submit to the joint

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1 committee on finance an implementation plan for the approved portions of the
2 request including the expected timeline for final implementation of the request in
3 accordance with the federal agency's approval. When the state agency submits an
4 implementation plan that it considers its final implementation plan, the state
5 agency may not implement the approved portions of the request until the joint
6 committee on finance approves the final implementation plan. The procedures
7 under s. 13.10 do not apply to this subdivision.

8 2. Beginning 30 days after the date of submission of the implementation plan
9 and monthly thereafter, submit to the joint committee on finance a progress report
10 on implementation of the approved portions of the request.

11 3. Beginning 90 days after the date of approval of any portion of the request by
12 the federal agency, or March 1, 2019, whichever is later, and quarterly thereafter,
13 make available to the joint committee on finance a representative of the state agency
14 to brief the committee or provide testimony at a committee hearing at the
15 committee's request. The state agency shall ensure that at least one representative
16 of the state agency appearing in person before the committee has sufficient personal
17 knowledge of the negotiations and progress toward implementation of the approval
18 of the request to respond to inquiries and requests for information by the committee.

19 **(4) REQUESTS FOR RENEWAL.** No later than 9 months before the expiration of an
20 approved waiver of federal law, pilot program, or demonstration project for which no
21 legislation has been enacted specifying that the waiver, program, or project must be
22 suspended or terminated, the state agency shall submit a written notice to the joint
23 committee on finance of the expiration date and the state agency's intent regarding
24 renewal. If the state agency intends to request substantive changes to the waiver,
25 program, or project in its request to the federal agency, the state agency shall comply

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1 with the procedures under sub. (3). If the state agency intends to renew the waiver,
2 program, or project without substantive changes, notwithstanding sub. (3) and
3 before submitting the renewal request to the federal agency, the state agency shall
4 submit a proposed renewal request to the joint committee on finance. If the
5 cochairpersons of the joint committee on finance do not notify the state agency within
6 14 working days after the date of the submittal of the proposed renewal request
7 under this subsection that the committee has scheduled a meeting for the purpose
8 of reviewing the proposed renewal request, the state agency may submit the
9 proposed renewal request. If, within 14 working days after the date of the submittal
10 of the proposed renewal request under this subsection, the cochairpersons of the
11 committee notify the state agency that the committee has scheduled a meeting for
12 the purpose of reviewing the proposed renewal request, the state agency may submit
13 the proposed renewal request only upon approval by the committee. After reviewing
14 the proposed renewal request and determining any changes requested are
15 substantive, the cochairpersons of the joint committee on finance may require the
16 state agency to comply with any of the procedures under sub. (3). The procedures
17 under s. 13.10 do not apply to this subsection.

18 **(5) DELEGATION TO STANDING COMMITTEE.** The cochairpersons of the joint
19 committee on finance may delegate to a standing committee of the legislature of
20 appropriate subject matter jurisdiction any of the responsibilities of the joint
21 committee on finance under sub. (3). The cochairpersons shall specify the terms of
22 a delegation under this subsection and shall determine what constitutes an approval
23 under a delegation under this subsection.

24 **(6) FUNDING OR POSITION REDUCTION FOR NONCOMPLIANCE.** If the joint committee
25 on finance determines that the applicable state agency has not made sufficient

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1 progress in submitting the request, negotiating with the federal agency, or
2 implementing an approved portion of a request or is not acting in accordance with
3 the enacted legislation requiring the submission of the request, the joint committee
4 on finance may reduce from moneys allocated for state operations or administrative
5 functions the state agency's appropriation or expenditure authority, whichever is
6 applicable, or change the authorized level of full-time equivalent positions for the
7 state agency related to the program for which the request is required to be submitted.
8 The procedures under s. 13.10 do not apply to this subsection.

9 **SECTION 69.** 35.93 (2) (b) 3. im. of the statutes is created to read:

10 35.93 (2) (b) 3. im. Notices of public comment periods on proposed guidance
11 documents under s. 227.112 (1) (a).

12 **SECTION 70.** 45.57 of the statutes is amended to read:

13 45.57 **Veterans homes; transfer of funding.** The department may transfer
14 all or part of the unencumbered balance of any of the appropriations under s. 20.485
15 (1) (g), (gd), (gk), or (i) to the veterans trust fund or to the veterans mortgage loan
16 repayment fund. The department shall notify the joint committee on finance in
17 writing of any balance transferred under this section.

18 **SECTION 71.** 49.175 (2) (a) of the statutes is amended to read:

19 49.175 (2) (a) The department may not reallocate funds that are allocated
20 under a paragraph under sub. (1) for any purpose specified in a paragraph under sub.
21 (1) if the secretary of administration approves the reallocation unless the
22 department first notifies the joint committee on finance in writing of the proposed
23 reallocation. If the cochairpersons of the committee do not notify the department
24 within 14 working days after the date of the department's notification that the
25 committee has scheduled a meeting to review the proposed reallocation, the

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1 department may make the proposed reallocation. If, within 14 working days after
2 the date of the department's notification, the cochairpersons of the committee notify
3 the department that the committee has scheduled a meeting to review the proposed
4 reallocation, the department may make the proposed reallocation only upon
5 approval of the committee.

6 **SECTION 72.** 49.175 (2) (c) of the statutes is amended to read:

7 49.175 (2) (c) If the amounts of federal block grant moneys that are required
8 to be credited to the appropriation accounts under s. 20.437 (2) (mc) and (md) are less
9 than the amounts appropriated under s. 20.437 (2) (mc) and (md), the department
10 shall submit a plan to the ~~secretary of administration~~ joint committee on finance for
11 reducing the amounts of moneys allocated under sub. (1). ~~If the secretary of~~
12 ~~administration approves the plan, the amounts of moneys required to be allocated~~
13 ~~under sub. (1) may be reduced as proposed by the department and~~ If the
14 cochairpersons of the committee do not notify the department within 14 working
15 days after the date the department submits the plan that the committee has
16 scheduled a meeting to review the proposed reduction plan, the department shall
17 allocate the moneys as specified in the plan. If, within 14 working days after the date
18 the department submits the plan, the cochairpersons of the committee notify the
19 department that the committee has scheduled a meeting to review the proposed
20 reduction plan, the department may allocated the moneys as specified in the plan
21 only upon approval of the committee.

22 **SECTION 73.** 49.45 (2t) of the statutes is created to read:

23 49.45 (2t) SUBMISSION OF STATE PLAN AMENDMENTS AND PROVIDER PAYMENTS. (a)
24 The department may not submit a Medical Assistance state plan amendment to the
25 federal department of health and human services or implement a change to the

SENATE BILL 887**SECTION 73**

1 reimbursement rate for or make a supplemental payment to a provider under the
2 Medical Assistance program under this subchapter when the amendment, rate
3 change, or payment has an expected fiscal effect of less than \$1,000,000 from all
4 revenue sources over a 12-month period following the implementation date of the
5 amendment, rate change, or payment without submitting the proposed state plan
6 amendment, rate change, or payment to the joint committee on finance for review.
7 If the cochairpersons of the joint committee on finance do not notify the department
8 within 14 working days after the date of the submittal under this paragraph that the
9 committee has scheduled a meeting for the purpose of reviewing the proposed state
10 plan amendment, rate change, or payment, the department may submit the state
11 plan amendment, implement the rate change, or make the payment. If, within 14
12 working days after the date of the submittal under this paragraph by the
13 department, the cochairpersons of the committee notify the department that the
14 committee has scheduled a meeting for the purpose of reviewing the proposed state
15 plan amendment, rate change, or payment, the department may submit the state
16 plan amendment, implement the rate change, or make the payment only upon
17 approval by the committee.

18 (b) The department may not submit a Medical Assistance state plan
19 amendment to the federal department of health and human services or implement
20 a change to the reimbursement rate for or make a supplemental payment to a
21 provider under the Medical Assistance program under this subchapter when the
22 amendment, rate change, or payment has an expected fiscal effect of \$1,000,000 or
23 more from all revenue sources over a 12-month period following the implementation
24 date of the amendment, rate change, or payment without submitting the proposed
25 state plan amendment, rate change, or payment to the joint committee on finance for

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1 review. The department may submit the proposed state plan amendment,
2 implement the rate change, or make the payment only upon approval by the
3 committee of the proposed state plan amendment, rate change, or payment
4 submitted under this paragraph.

5 (c) Notwithstanding pars. (a) and (b), the department is not required to submit
6 a proposed change to a reimbursement rate for or supplemental payment to a
7 provider under the Medical Assistance program under this subchapter to the joint
8 committee on finance under par. (a) or (b) if explicit expenditure authority or funding
9 for the specific change or supplemental payment is included in enacted legislation.

10 **SECTION 74.** 49.45 (23b) of the statutes is created to read:

11 49.45 (23b) CHILDLESS ADULTS DEMONSTRATION PROJECT REFORM WAIVER
12 IMPLEMENTATION REQUIRED. (a) In this subsection:

13 1. "Community engagement activity" includes any of the following:

14 a. Work in exchange for money, goods, or services.

15 b. Unpaid work, such as volunteer work or community service.

16 c. Self-employment.

17 d. Participation in a work, job training, or job search program, as approved by
18 the department, including the employment and training program under s. 49.79 (9),
19 the Wisconsin Works program under ss. 49.141 to 49.161, programs under the federal
20 workforce innovation and opportunity act, and tribal work programs.

21 2. "Exempt individual" means an individual who is any of the following:

22 a. Receiving temporary or permanent disability benefits from the federal or
23 state government or a private source.

24 b. Determined by the department to be physically or mentally unable to work.

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1 c. Verified as unable to work in a statement from a social worker or other health
2 care professional.

3 d. Experiencing chronic homelessness.

4 e. Serving as primary caregiver for a person who cannot care for himself or
5 herself.

6 f. Receiving or applying for unemployment compensation and complying with
7 the work requirements for unemployment compensation.

8 g. Participating regularly in an alcohol or other drug abuse treatment or
9 rehabilitation program, except for alcoholics anonymous or narcotics anonymous but
10 including cultural interventions specific to American Indian tribes or bands.

11 h. Attending high school at least half time or enrolled in an institution of higher
12 education, including vocational programs or high school equivalency programs, at
13 least half time.

14 i. Exempt from work requirements under the food stamp program under s.
15 49.79.

16 (b) Beginning as soon as practicable after October 31, 2018, and ending no
17 sooner than December 31, 2023, the department shall do all of the following with
18 regard to the childless adults demonstration project under sub. (23):

19 1. Require in each month persons, except exempt individuals, who are eligible
20 to receive Medical Assistance under sub. (23) and who are at least 19 years of age but
21 have not attained the age of 50 to participate in, document, and report 80 hours per
22 calendar month of community engagement activities. The department, after finding
23 good cause, may grant a temporary exemption from the requirement under this
24 subdivision upon request of a Medical Assistance recipient.

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1 2. Require persons with incomes of at least 50 percent of the poverty line to pay
2 premiums in accordance with par. (c) as a condition of eligibility for Medical
3 Assistance under sub. (23).

4 3. Require as a condition of eligibility for Medical Assistance under sub. (23)
5 completion of a health risk assessment.

6 4. Charge recipients of Medical Assistance under sub. (23) an \$8 copayment for
7 nonemergency use of the emergency department in accordance with 42 USC 1396o-1
8 (e) (1) and 42 CFR 447.54.

9 5. Disenroll from Medical Assistance under sub. (23) for 6 months any
10 individual who does not pay a required premium under subd. 2. and any individual
11 who is required under subd. 1. to participate in a community engagement activity but
12 who does not participate for 48 aggregate months in the community engagement
13 activity.

14 (c) 1. Persons who are eligible for the demonstration project under sub. (23) and
15 who have monthly household income that exceeds 50 percent of the poverty line shall
16 pay a monthly premium amount of \$8 per household. A person who is eligible to
17 receive an item or service furnished by an Indian health care provider is exempt from
18 the premium requirement under this subdivision.

19 2. The department may disenroll under par. (b) 5. a person for nonpayment of
20 a required monthly premium only at annual eligibility redetermination after
21 providing notice and reasonable opportunity for the person to pay. If a person who
22 is disenrolled for nonpayment of premiums pays all owed premiums or becomes
23 exempt from payment of premiums, he or she may reenroll in Medical Assistance
24 under sub. (23).

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1 3. The department shall reduce the amount of the required household premium
2 by up to half for a recipient of Medical Assistance under sub. (23) who does not engage
3 in certain behaviors that increase health risks or who attests to actively managing
4 certain unhealthy behaviors.

5 (d) The department shall comply with any other requirements not specified
6 elsewhere in this subsection that are imposed by the federal department of health
7 and human services in its approval effective October 31, 2018.

8 (e) Before December 31, 2023, the demonstration project requirements under
9 this subsection may not be withdrawn and the department may not request from the
10 federal government withdrawal, suspension, or termination of the demonstration
11 project requirements under this subsection unless legislation has been enacted
12 specifically allowing for the withdrawal, suspension, or termination.

13 (f) The department shall comply with all applicable timing in and requirements
14 of s. 20.940.

15 **SECTION 75.** 49.79 (9) (d) 1. of the statutes is repealed.

16 **SECTION 76.** 49.79 (9) (d) 2. of the statutes is renumbered 49.79 (9) (d) and
17 amended to read:

18 49.79 (9) (d) Subject to the promulgation of rules under subd. 1. s. 49.791, the
19 department shall screen and, if indicated, test and treat participants in an
20 employment and training program under this subsection who are able-bodied adults
21 for illegal use of a controlled substance without a valid prescription for the controlled
22 substance. Eligibility for an able-bodied adult to participate in an employment and
23 training program under this subsection is subject to s. 49.791.

24 **SECTION 77.** 49.791 of the statutes is created to read:

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1 **49.791 Substance abuse screening, testing, and treatment for**
2 **employment and training programs. (1) DEFINITIONS.** In this section:

3 (a) “Able-bodied adult” has the meaning given in s. 49.79 (1) (am).

4 (b) “Administering agency” means an administrative agency within the
5 executive branch under ch. 15 or an entity that contracts with the state such as a
6 single county consortia under s. 49.78 (1r), a multicounty consortia under s. 49.78 (1)
7 (br), or a tribal governing body under s. 49.78 (1) (cr).

8 (c) “Confirmation test” means an analytical procedure used to quantify a
9 specific controlled substance or its metabolite in a specimen through a test that is
10 different in scientific principle from that of the initial test procedure and capable of
11 providing the requisite specificity, sensitivity, and quantitative accuracy to
12 positively confirm use of a controlled substance.

13 (d) “Controlled substance” has the meaning given in s. 49.79 (1) (b).

14 (e) “Employment and training program” means the food stamp employment
15 and training program under s. 49.79 (9).

16 (f) “Food stamp program” has the meaning given in s. 49.79 (1) (c).

17 (g) “Medical review officer” means a licensed medical provider who is employed
18 by or providing services under a contract to a qualified drug testing vendor, has
19 knowledge of substance abuse disorders and laboratory testing procedures, and has
20 the necessary training and experience to interpret and evaluate an individual’s
21 positive test result in relation to the individual’s medical history and valid
22 prescriptions.

23 (h) “Metabolite” means a chemical present in the body when a controlled
24 substance is being broken down through natural metabolic processes that can be

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1 detected or measured as a positive indicator that a controlled substance associated
2 with the metabolite has been used.

3 (i) "Prescription" means a current order for a controlled substance that
4 indicates the specific regimen and duration of the order and that is transmitted
5 electronically or in writing by an individual authorized in this state to order the
6 controlled substance.

7 (j) "Qualified drug testing vendor" means a laboratory certified by the federal
8 centers for medical and medicaid services under the federal Clinical Laboratory
9 Improvement Amendments of 1988 to collect a specimen, carry out laboratory
10 analysis of the specimen, store the specimen for a confirmation test if required,
11 complete a confirmation test, and provide review by a medical review officer.

12 (k) "Screening" means completing a questionnaire specified by the department
13 regarding an individual's current and prior use of any controlled substance.

14 (L) "Specimen" means tissue, fluid, or any other product of the human body
15 required to be submitted by an individual for testing under this section.

16 (m) "Trauma-informed" means operating under the understanding of the
17 science of adverse childhood experiences, toxic stress, trauma, and resilience,
18 incorporating that understanding into organizational culture, policies, programs,
19 and practices, and adhering to trauma-informed principles such as safety,
20 trustworthiness and transparency, peer support, collaboration and mutuality,
21 empowerment, and cultural, historical, and gender issue recognition.

22 (n) "Treatment" means any service that is conducted under clinical supervision
23 to assist an individual through the process of recovery from controlled substance
24 abuse, including screening, application of approved placement criteria, intake,
25 orientation, assessment, individualized treatment planning, intervention,

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1 individual or group and family counseling, referral, discharge planning, after care
2 or continuing care, record keeping, consultation with other professionals regarding
3 treatment services, recovery and case management, crisis intervention, education,
4 employment, and problem resolution in life skills functioning.

5 (o) "Treatment program" means a program certified by the department to
6 provide treatment for controlled substance abuse as a medically managed inpatient
7 service, a medically monitored treatment service, a day treatment service, an
8 outpatient treatment service, a transitional residential treatment service, or a
9 narcotic treatment service for opiate addiction or, as approved by the department,
10 psychosocial rehabilitation services.

11 (p) "Treatment provider" means a provider of treatment for controlled
12 substance abuse certified by the department, a provider certified under s. 440.88, or
13 a licensed professional who meets criteria established by the department of safety
14 and professional services.

15 **(2) NOTICE OF REQUIREMENT.** An administering agency shall provide
16 information in a format approved by the department to any individual who expresses
17 interest in or is referred to participate in an employment and training program to
18 explain the requirement for participants in certain employment and training
19 programs to undergo screening, testing, and treatment for abuse of controlled
20 substances.

21 **(3) ADMINISTERING AND EVALUATING A CONTROLLED SUBSTANCE ABUSE SCREENING**
22 **QUESTIONNAIRE.** (a) At the time of application and at annual redetermination for
23 eligibility in the food stamp program, an administering agency shall administer to
24 any able-bodied adult who is subject to the work requirement under s. 49.79 (10) (a)
25 and intends on meeting the work requirement through participation in the

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1 employment and training program a controlled substance abuse screening
2 questionnaire approved by the department, which may include questions related to
3 controlled substance abuse-related criminal background and controlled substance
4 abuse. The administering agency shall determine whether answers to the controlled
5 substance abuse screening questionnaire indicate possible use of a controlled
6 substance without a valid prescription by the able-bodied adult.

7 (b) 1. An able-bodied adult who is administered a controlled substance abuse
8 screening questionnaire under par. (a) shall answer all questions on the screening
9 questionnaire, sign and date the questionnaire, and submit the questionnaire to the
10 administering agency.

11 2. If the able-bodied adult indicates on the screening questionnaire submitted
12 under subd. 1. the prescribed use of a controlled substance, the able-bodied adult
13 shall provide evidence of the valid prescription to the administering agency.

14 (c) An able-bodied adult who is administered a controlled substance abuse
15 screening questionnaire under par. (a) and who fails to comply with the requirements
16 under par. (b) is not eligible to participate in the employment and training program,
17 and the administering agency may not refer the individual to participate in the
18 employment and training program. An able-bodied adult who is denied eligibility
19 for participation in the employment and training program for failure to complete the
20 requirements under par. (b) may complete the requirements under par. (b) at any
21 time while eligible for the food stamp program.

22 (d) An able-bodied adult who completes a controlled substance abuse screening
23 questionnaire under this subsection and whose answers to the screening
24 questionnaire do not indicate possible abuse of a controlled substance has satisfied

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1 the requirements of this section and may participate in an employment and training
2 program subject to this section.

3 (4) TESTING FOR USE OF A CONTROLLED SUBSTANCE REQUIRED. (a) *Individuals*
4 *required to undergo testing; exception.* 1. Except as provided in subd. 2., an
5 administering agency shall require an able-bodied adult whose answers on the
6 controlled substance abuse screening questionnaire submitted under sub. (3)
7 indicate possible use of a controlled substance without a prescription to undergo a
8 test for the use of a controlled substance.

9 2. An administering agency may not require an able-bodied adult whose
10 answers on the controlled substance abuse screening questionnaire submitted under
11 sub. (3) indicate possible use of a controlled substance and who also indicates
12 readiness to enter treatment for controlled substance abuse to undergo a test for the
13 use of a controlled substance.

14 (b) *Nature of testing required.* A test for use of a controlled substance under
15 this subsection consists of laboratory analysis of a specimen collected from an
16 able-bodied adult described in par. (a) in a manner specified by the department that
17 is consistent with guidelines from the federal department of health and human
18 services by a qualified drug testing vendor or a provider approved by the department.
19 The qualified drug testing vendor or other provider shall analyze the specimen for
20 the presence of controlled substances specified by the department.

21 (c) *Contracts for testing services.* 1. The administering agency, subject to the
22 department's approval, may contract with a trauma-informed qualified drug testing
23 vendor to collect a specimen, carry out laboratory analysis of the specimen, store the
24 specimen for confirmatory testing if required, complete confirmatory testing, provide

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1 review by a medical review officer, and document and report test results to the
2 administering agency.

3 2. The department may require administering agencies to use a specific drug
4 testing service procured through state contracting if the department determines that
5 volume discounts or other preferential pricing terms may be achieved through a
6 statewide contract.

7 (d) *Effects of refusal to submit to drug test.* 1. An able-bodied adult who is
8 required to undergo a test for the use of a controlled substance under par. (a) but who
9 refuses to submit to a drug test by doing any of the following is ineligible to
10 participate in the employment and training program until the individual agrees to
11 be tested for use of a controlled substance and test results have been reported:

12 a. Failing or refusing to appear for a scheduled drug test without good cause.

13 b. Failing or refusing to complete a form or release of information required for
14 testing, including any form or release required by the qualified drug testing vendor
15 to permit the vendor to report test results to the administering agency or
16 department.

17 c. Failing or refusing to provide a valid specimen for testing.

18 d. Failing or refusing to provide verification of identity to the testing vendor.

19 2. The administering agency may direct an able-bodied adult who initially
20 refused to submit to a drug test under subd. 1. and subsequently agrees to submit
21 to a test to undergo drug testing on a random basis at any time within 10 business
22 days after the able-bodied adult agrees to submit to a test.

23 (e) *Confirmation test required.* If an able-bodied adult tests positive for the use
24 of a controlled substance, the qualified drug testing vendor shall perform a
25 confirmation test using the same specimen obtained for the initial drug test. The

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1 vendor's medical review officer who is responsible for determining the presence of a
2 controlled substance under par. (b) shall interpret all drug test results that are not
3 negative.

4 (f) *Accepting test results from other programs.* For purposes of this section, an
5 administering agency may use results of a drug test performed by the administering
6 agency for the purpose of eligibility for another state program, including a work
7 experience program under s. 49.162, 49.36, or 108.133, performed at the request of
8 the department of corrections, or performed by other drug testing providers as
9 approved by the department to determine whether to refer an able-bodied adult to
10 treatment if all of the following apply:

11 1. The test results are provided directly to the administering agency.

12 2. The test results include tests for all controlled substances required by the
13 department to be tested under this section.

14 3. The test occurred within 90 days before the results are provided to the
15 administering agency.

16 (g) *Effect of a negative test.* An able-bodied adult who undergoes a test for use
17 of a controlled substance under this subsection and tests negative for use of a
18 controlled substance or who tests positive for use of a controlled substance but
19 provides to the administering agency a prescription for each controlled substance for
20 which the adult tests positive is not prohibited from participating in an employment
21 and training program.

22 (h) *Effect of a positive test.* An able-bodied adult who undergoes a test for use
23 of a controlled substance under this subsection, whose test results are positive, and
24 who does not provide evidence of a prescription for the controlled substance, as
25 determined by the qualified drug testing vendor's medical review officer, is required

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1 to participate in treatment under sub. (5) to participate in an employment and
2 training program.

3 (5) PARTICIPATION IN TREATMENT REQUIRED. (a) *Individuals required to*
4 *participate in treatment.* An able-bodied adult who is described under sub. (4) (a)
5 or (h) is required to participate in trauma-informed treatment to be eligible to
6 participate in an employment and training program.

7 (b) *Referral for treatment; monitoring.* The applicable administering agency
8 shall provide to every able-bodied adult who is required to participate in treatment
9 under par. (a) information about treatment programs and county-specific
10 assessment and enrollment activities required for entry into treatment. The
11 applicable administering agency shall monitor the able-bodied adult's progress in
12 entering and completing treatment and the results of random testing for the use of
13 a controlled substance carried out during and at the conclusion of treatment.

14 (c) *Evaluation and assessment.* A treatment provider shall conduct a
15 trauma-informed substance abuse evaluation and assessment of each able-bodied
16 adult and take any of the following actions, as appropriate, based on the evaluation
17 and assessment:

18 1. If the treatment provider determines the able-bodied adult does not need
19 treatment, notify the administering agency that the able-bodied adult does not need
20 treatment.

21 2. If the treatment provider determines the able-bodied adult is in need of
22 treatment, refer the individual to an appropriate treatment program to begin
23 treatment and notify the administering agency of the referral and the expected start
24 date and duration of treatment.

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1 3. If a treatment provider determines the able-bodied adult is in need of
2 treatment but is unable to refer the adult because there is a waiting list for
3 enrollment, enter the able-bodied adult on the waiting list and notify the
4 administering agency of the date the adult is expected to be enrolled.

5 (d) *Eligibility when treatment not needed or on waiting list.* 1. An able-bodied
6 adult described in par. (c) 1. is determined to have satisfied the requirements of this
7 section and is eligible under this section to participate in an employment and
8 training program.

9 2. An able-bodied adult who is on a waiting list for enrollment in an
10 appropriate treatment program under par. (c) 3. shall continue to take all necessary
11 steps to continue seeking enrollment in the appropriate treatment program. The
12 able-bodied adult is eligible under this section to participate in an employment and
13 training program while on the waiting list if the adult is not eligible for immediate
14 enrollment in another appropriate treatment program.

15 (e) *Satisfying treatment requirement through another program.* An
16 administering agency shall accept as satisfying the requirements of this subsection
17 participation in any treatment program. The able-bodied adult satisfying the
18 requirements of this subsection by participating in another treatment program shall
19 execute a release of information to allow the administering agency to obtain
20 verification of successful participation in that treatment program.

21 (f) *Effects of refusal to submit to treatment.* An able-bodied adult who is
22 required to participate in treatment under par. (a) but who refuses to participate in
23 treatment by doing any of the following is ineligible to participate in the employment
24 and training program until the individual agrees to participate in treatment while
25 still eligible for the food stamp program:

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1 1. Failing or refusing to complete a form or release required for treatment
2 program administration, including a form or release required by the treatment
3 provider in order to share information with the administering agency about the
4 able-bodied adult's participation in treatment.

5 2. Failing or refusing to participate in a controlled substance test required by
6 the treatment provider or the administering agency during the course of required
7 treatment, including any random controlled substance testing directed by the
8 treatment provider or administering agency.

9 3. Failing or refusing to meet attendance or participation requirements
10 established by the treatment provider.

11 4. Failing or refusing to complete a substance abuse assessment.

12 (g) *Completion of required treatment.* An able-bodied adult required under par.
13 (a) to participate in treatment is considered to have successfully completed
14 treatment if all applicable components identified under par. (c) are satisfied.

15 (h) *Work requirements while in treatment.* An able-bodied adult who is
16 participating in an employment and training program is exempt from complying
17 with requirements to work a specified number of hours under s. 49.79 (9) or (10) while
18 participating in treatment under this subsection.

19 **(6) EFFECT OF COMPLETION, WITHDRAWAL, OR TERMINATION FROM EMPLOYMENT AND**
20 **TRAINING PROGRAM.** An able-bodied adult who satisfies any of the following is no
21 longer subject to s. 49.79 (9) (d) or this section:

22 (a) The able-bodied adult has completed or voluntarily withdrawn from
23 participation in an employment and training program.

24 (b) The able-bodied adult is terminated from an employment and training
25 program for reasons unrelated to this section.

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1 (c) The able-bodied adult is no longer subject to the requirements of s. 49.79
2 (10).

3 **(7) CONFIDENTIALITY OF RECORDS.** Completed screening questionnaires,
4 prescriptions, testing results, and treatment records relating to this section may not
5 be disclosed except for purposes connected with the administration of an
6 employment and training program or except when disclosure is otherwise authorized
7 by law or by written consent from the individual who is the subject of the record. The
8 department may establish administrative, physical, and technical safeguard
9 procedures administering agencies must follow to assure compliance with state and
10 federal laws related to public assistance program records, drug testing and
11 treatment records, and medical records.

12 **(8) APPEALS.** An adverse decision under this section may be appealed under 7
13 CFR 273.15 and procedures established in rules promulgated by the division of
14 hearings and appeals.

15 **(9) PAYMENT OF COSTS FOR SCREENING, TESTING, AND TREATMENT.** (a) The
16 department shall pay for all costs related to screening able-bodied adults under sub.
17 (3), including the costs of producing, administering, and reviewing screening
18 questionnaires.

19 (b) The department shall pay for all costs related to testing able-bodied adults
20 under sub. (4), including any costs related to contracting with qualified drug testing
21 vendors under sub. (4) (c).

22 (c) The department shall pay costs for treatment under sub. (5) that are not
23 covered by the Medical Assistance program under subch. IV of ch. 49 or other private
24 insurance. Payments by the department under this paragraph shall be at rates no

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1 higher than the rates paid for comparable services under the Medical Assistance
2 program.

3 **SECTION 78.** 71.05 (6) (a) 14. of the statutes is amended to read:

4 71.05 **(6)** (a) 14. Any amount received as a proportionate share of the earnings
5 and profits of a corporation that is an S corporation for federal income tax purposes
6 if those earnings and profits accumulated during a year for which the shareholders
7 have elected under s. 71.365 (4) (a) not to be a tax-option corporation, to the extent
8 not included in federal adjusted gross income for the current year. This subdivision
9 does not apply to earnings and profits accumulated during a year for which a
10 tax-option corporation has made an election under s. 71.365 (4m) (a) to be taxed at
11 the entity level.

12 **SECTION 79.** 71.05 (10) (dm) of the statutes is created to read:

13 71.05 **(10)** (dm) Any item of income, loss, or deduction passed through from an
14 entity that has made an election under s. 71.21 (6) (a) or 71.365 (4m) (a) to be taxed
15 at the entity level.

16 **SECTION 80.** 71.07 (7) (b) of the statutes, as affected by 2017 Wisconsin Act 59,
17 is renumbered 71.07 (7) (b) 1. and amended to read:

18 71.07 **(7)** (b) 1. Subject to conditions and limitations in pars. (c) and (d), if a
19 resident individual, estate or trust pays a net income tax to another state, that
20 resident individual, estate or trust may credit the net tax paid to that other state on
21 that income against the net income tax otherwise payable to ~~the~~ this state on income
22 of the same year. The credit may not be allowed unless the income taxed by the other
23 state is also considered income for Wisconsin tax purposes. The credit may not be
24 allowed unless claimed within the time provided in s. 71.75 (2), but s. 71.75 (4) does
25 not apply to those credits. For purposes of this ~~paragraph~~ subdivision, amounts

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1 declared and paid under the income tax law of another state are considered a net
2 income tax paid to that other state only in the year in which the income tax return
3 for that state was required to be filed.

4 2. Income and franchise taxes paid to another state by a tax-option corporation,
5 partnership, or limited liability company that is treated as a partnership may be
6 claimed as a credit under this paragraph by that corporation's shareholders, that
7 partnership's partners, or that limited liability company's members who are
8 residents of this state and who otherwise qualify under this paragraph, unless the
9 tax-option corporation, partnership, or limited liability company has made an
10 election under s. 71.21 (6) (a) or 71.365 (4m) (a).

11 **SECTION 81.** 71.07 (7) (b) 3. of the statutes is created to read:

12 71.07 (7) (b) 3. Subject to the conditions and limitations in pars. (c) and (d), if
13 a tax-option corporation, partnership, or limited liability company makes an
14 election under s. 71.21 (6) (a) or 71.365 (4m) (a), that tax-option corporation,
15 partnership, or limited liability company may credit the net income or franchise tax
16 paid by the entity to another state on that income and the net income tax on that
17 income paid by the entity on behalf of its shareholders, partners, and members that
18 are residents of this state on a composite return filed with the other state against the
19 net income or franchise tax otherwise payable to this state on income of the same
20 year. The credit may not be allowed unless the income taxed by the other state is also
21 considered income for Wisconsin tax purposes and is otherwise attributable to
22 amounts that would be reportable to this state by shareholders, partners, or
23 members of the tax-option corporation, partnership, or limited liability company
24 that are residents of this state if the election under s. 71.21 (6) (a) or 71.365 (4m) (a)
25 was not made. The credit may not be allowed unless claimed within the time

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1 provided in s. 71.75 (2), but s. 71.75 (4) does not apply to those credits. For purposes
2 of this subdivision, amounts declared and paid under the income tax law of another
3 state are considered a net income tax paid to that other state only in the year in which
4 the income tax return for that state was required to be filed.

5 **SECTION 82.** 71.07 (7) (c) of the statutes, as created by 2017 Wisconsin Act 59,
6 is amended to read:

7 71.07 (7) (c) ~~The credit~~ total credits under par. (b) 1. and 2. may not exceed an
8 amount determined by multiplying the taxpayer's net Wisconsin income tax by a
9 ratio derived by dividing the income subject to tax in the other state that is also
10 subject to tax in Wisconsin while the taxpayer is a resident of Wisconsin, by the
11 taxpayer's Wisconsin adjusted gross income. The credit under par. (b) 3. may not
12 exceed an amount determined by multiplying the income subject to tax in the other
13 state that is also subject to tax in Wisconsin by 7.9 percent.

14 **SECTION 83.** 71.21 (6) of the statutes is created to read:

15 71.21 (6) (a) If persons who, on the day on which an election under this
16 paragraph is made, hold more than 50 percent of the capital and profits of a
17 partnership consent, a partnership that is a partnership for federal income tax
18 purposes may elect, on or before the due date or extended due date of its return under
19 this chapter, to be taxed at the entity level at a rate of 7.9 percent of net income
20 reportable to this state as described in par. (d) 1. for that taxable year.

21 (b) It is the intent of the election under par. (a) that partners of a partnership
22 may not include in their Wisconsin adjusted gross income their proportionate share
23 of all items of income, gain, loss, or deduction of the partnership. It is also the intent
24 that the partnership shall pay tax on items that would otherwise be taxed if this
25 election was not made.

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1 (c) If persons who, on the day on which the election under this paragraph is
2 made, hold more than 50 percent of the capital and profits of a partnership that has
3 elected to be taxed at the entity level under par. (a) consent, a partnership that is a
4 partnership for federal income tax purposes may elect, on or before the due date or
5 extended due date of its return under this chapter, to revoke for that taxable year its
6 election under par. (a).

7 (d) If an election is made under par. (a), all of the following apply:

8 1. The net income of the partnership is computed under subs. (1) to (5) and the
9 situs of income shall be determined as if the election under par. (a) was not made.

10 2. The partnership may not claim the loss under s. 71.05 (8).

11 3. Except as provided in s. 71.07 (7) (b) 3., the tax credits under this chapter
12 may not be claimed by the partnership.

13 4. A partner's adjusted basis of the partner's interest in the partnership is
14 determined as if the election under par. (a) was not made.

15 5. The provisions of ss. 71.09 and 71.84 relating to estimated payments and
16 underpayment interest shall apply to the partnership.

17 6. If the partnership fails to pay the amount owed to the department with
18 respect to income as a result of the election under par. (a), the department may collect
19 the amount from the partners based on their proportionate share of such income.

20 (e) The department may promulgate rules to implement this subsection.

21 **SECTION 84.** 71.36 (1) of the statutes is amended to read:

22 71.36 (1) It is the intent of this section that shareholders of tax-option
23 corporations include in their Wisconsin adjusted gross income their proportionate
24 share of the corporation's tax-option items unless the corporation elects under s.

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1 71.365 (4) (a) not to be a tax-option corporation or elects under s. 71.365 (4m) (a) to
2 be taxed at the entity level.

3 **SECTION 85.** 71.365 (1) of the statutes is renumbered 71.365 (1) (a) and
4 amended to read:

5 71.365 (1) (a) For purposes of this chapter, the adjusted basis of a shareholder
6 in the stock and indebtedness of a tax-option corporation shall be determined in the
7 manner prescribed by the internal revenue code for a shareholder of an S
8 corporation, except that the nature and amount of items affecting that basis shall be
9 determined under this chapter. This ~~subsection~~ paragraph does not apply to 1978
10 and earlier taxable years of corporations which were S corporations for federal
11 income tax purposes or to taxable years of corporations for which an election has been
12 made under sub. (4) (a).

13 **SECTION 86.** 71.365 (1) (b) of the statutes is created to read:

14 71.365 (1) (b) The adjusted basis of a shareholder in the stock and indebtedness
15 of a tax-option corporation that has made an election under sub. (4m) (a) is
16 determined as if the election was not made.

17 **SECTION 87.** 71.365 (4m) of the statutes is created to read:

18 71.365 (4m) TAX-OPTION CORPORATION ELECTION TO PAY FRANCHISE OR INCOME TAX
19 AT THE ENTITY LEVEL. (a) If persons who hold more than 50 percent of the shares on
20 the day on which an election under this paragraph is made consent, a corporation
21 that is an S corporation for federal income tax purposes may elect, on or before the
22 due date or extended due date of its return under this chapter, to be taxed at the
23 entity level at a rate of 7.9 percent of net income reportable to this state as described
24 in par. (d) 1. for that taxable year.

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1 (b) It is the intent of the election under par. (a) that shareholders of a tax-option
2 corporation may not include in their Wisconsin adjusted gross income their
3 proportionate share of all items of income, gain, loss, or deduction of the tax-option
4 corporation. It is also the intent that the tax-option corporation shall pay tax on
5 items that would otherwise be taxed if this election was not made.

6 (c) If persons who, on the day on which the election under this paragraph is
7 made, hold more than 50 percent of the shares of a corporation that has elected to
8 be taxed at the entity level under par. (a) consent, a corporation that is an S
9 corporation for federal income tax purposes may elect, on or before the due date or
10 extended due date of its return under this chapter, to revoke for that taxable year its
11 election under par. (a).

12 (d) If an election is made under par. (a), all of the following apply:

13 1. The net income of the tax-option corporation is computed under s. 71.34 (1k)
14 and the situs of income shall be determined as if the election was not made.

15 2. Except as provided in s. 71.07 (7) (b) 3., the tax credits under this chapter
16 may not be claimed by the tax-option corporation.

17 3. The tax-option corporation may not claim losses under ss. 71.05 (8) and
18 71.26 (4).

19 4. The provisions of ss. 71.29 and 71.84 relating to estimated payments and
20 underpayment interest shall apply to the tax-option corporation for the taxable year
21 beginning in 2019 and later years.

22 5. If the tax-option corporation fails to pay the amount owed to the department
23 with respect to income as a result of the election under par. (a), the department may
24 collect such amount from the shareholders based on their proportionate share of such
25 income.

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1 (e) The department may promulgate rules to implement this subsection.

2 **SECTION 88.** 71.775 (3) (a) 4. of the statutes is created to read:

3 71.775 (3) (a) 4. The pass-through entity has elected under s. 71.21 (6) (a) or
4 71.365 (4m) (a) to be taxed at the entity level.

5 **SECTION 89.** 73.03 (71) of the statutes is amended to read:

6 73.03 (71) (a) To determine the amount of additional revenue ~~that reported to~~
7 ~~the department collected from the taxes imposed under subch. III of ch. 77 as a result~~
8 ~~of any federal law to expand~~ the United States Supreme Court decision that expands
9 ~~the state's authority to require out-of-state retailers to collect and remit the taxes~~
10 ~~imposed under subch. III of ch. 77 on purchases by Wisconsin residents during the~~
11 ~~first 12 months following the date on which the department begins collecting the~~
12 ~~additional revenue as a result of a change in federal law~~ period beginning on October
13 1, 2018, and ending on September 30, 2019.

14 (b) After the department makes the determination under par. (a), the
15 department of administration, in consultation with the department of revenue, shall
16 determine how much the individual income tax rates under s. 71.06 may be reduced
17 ~~in the following~~ for the taxable year ending on December 31, 2019, in order to
18 decrease individual income tax revenue by the amount determined under par. (a).
19 For purposes of this paragraph, ~~the department shall calculate~~ the tax rate
20 reductions shall be calculated in proportion to the share of gross tax attributable to
21 each of the tax brackets under s. 71.06 in effect during the most recently completed
22 taxable year.

23 (c) ~~The department~~ No later than October 20, 2019, the secretary of
24 administration shall certify and report the determinations made under pars. (a) and
25 (b) ~~to the secretary of the department of administration, to the governor, and to the~~

SENATE BILL 887**SECTION 89**

1 legislature the joint committee on finance, and the legislative audit bureau and
2 specify with that certification and report that the new tax rates take effect in for the
3 taxable year following the taxable year in which the department makes the
4 certification under this paragraph ending on December 31, 2019, subject to par. (d).

5 **SECTION 90.** 73.03 (71) (d) of the statutes is created to read:

6 73.03 (71) (d) The legislative audit bureau shall review the determinations
7 reported under par. (c) and report its findings to the joint legislative audit committee
8 and the joint committee on finance no later than November 1, 2019. If the legislative
9 audit bureau's review of the determinations reported under par. (c) results in a
10 different calculation of the tax rates than that made under par. (b), the joint
11 committee on finance shall determine which tax rates to apply to the taxable year
12 ending on December 31, 2019, and report its determination to the governor, the
13 secretary of administration, and the secretary of revenue no later than November 10,
14 2019.

15 **SECTION 91.** 77.51 (13g) (intro.) of the statutes is amended to read:

16 77.51 (13g) (intro.) Except as provided in ~~sub.~~ subs. (13gm) and (13h), "retailer
17 engaged in business in this state", for purposes of the use tax, includes any of the
18 following:

19 **SECTION 92.** 77.51 (13gm) of the statutes is created to read:

20 77.51 (13gm) (a) "Retailer engaged in business in this state" does not include
21 a retailer who has no activities as described in sub. (13g), except for activities
22 described in sub. (13g) (c), unless the retailer meets either of the following criteria
23 in the previous year or current year:

24 1. The retailer's annual gross sales into this state exceed \$100,000.

SENATE BILL 887**SECTION 92**

1 2. The retailer's annual number of separate sales transactions into this state
2 is 200 or more.

3 (b) If an out-of-state retailer's annual gross sales into this state exceed
4 \$100,000 in the previous year or the retailer's annual number of separate sales
5 transactions into this state is 200 or more in the previous year, the retailer shall
6 register with the department and collect the taxes administered under s. 77.52 or
7 77.53 on sales sourced to this state under s. 77.522 for the entire current year.

8 (c) If an out-of-state retailer's annual gross sales into this state are \$100,000
9 or less in the previous year and the retailer's annual number of separate sales
10 transactions into this state is less than 200 in the previous year, the retailer is not
11 required to register with the department and collect the taxes administered under
12 s. 77.52 or 77.53 on sales sourced to this state under s. 77.522 until the retailer's sales
13 or transactions meet the criteria in par. (a) 1. or 2. for the current year, at which time
14 the retailer shall register with the department and collect the tax for the remainder
15 of the current year.

16 (d) All of the following apply for purposes of this subsection:

17 1. "Year" means the retailer's taxable year for federal income tax purposes.

18 2. The annual amounts described in this subsection include both taxable and
19 nontaxable sales.

20 3. Each required periodic payment of a lease or license is a separate sales
21 transaction.

22 4. Deposits made in advance of a sale are not sales transactions.

23 5. An out-of-state retailer's annual amounts include all sales into this state
24 by the retailer on behalf of other persons and all sales into this state by another
25 person on the retailer's behalf.

SENATE BILL 887

1 **SECTION 93.** 84.54 of the statutes is created to read:

2 **84.54 Minimum federal expenditures for projects receiving federal**
3 **funding.** (1) Except as provided in sub. (2), for all of the following projects on which
4 the department expends federal moneys, the department shall expend federal
5 moneys on not less than 70 percent of the aggregate project components eligible for
6 federal funding each fiscal year:

7 (a) Southeast Wisconsin freeway megaprojects.

8 (b) Major highway development projects.

9 (c) State highway rehabilitation projects with a total cost of less than \$10
10 million.

11 **(2)** If the department determines that it cannot meet the requirements under
12 sub. (1) or that it can make more effective and efficient use of federal moneys than
13 the use required under sub. (1), the department may submit a proposed alternate
14 funding plan to the joint committee on finance. If the cochairpersons of the
15 committee do not notify the department within 14 working days after the date of the
16 department's submittal that the committee has scheduled a meeting for the purpose
17 of reviewing the proposed plan, the department may expend moneys as proposed in
18 the plan. If, within 14 working days after the date of the submittal, the
19 cochairpersons of the committee notify the department that the committee has
20 scheduled a meeting for the purpose of reviewing the proposed plan, the department
21 may expend moneys as proposed in the plan only upon approval of the committee.
22 The department may continue with any projects subject to the funding requirement
23 under sub. (1) while the committee conducts its review, including any hearings
24 conducted by the committee.

25 **SECTION 94.** 86.51 of the statutes is created to read:

SENATE BILL 887**SECTION 94**

1 **86.51 Requirements for local projects. (1)** In this section:

2 (a) “Local bridge” means a bridge that is not on the state trunk highway system
3 or on marked routes of the state trunk highway system designated as connecting
4 highways.

5 (b) “Local roads” means streets under the authority of cities or villages, county
6 trunk highways, or town roads.

7 (c) “Political subdivision” means a county, city, village, or town.

8 (d) “Project” means the development, construction, repair, or improvement of
9 a local road or a local bridge.

10 **(2)** If the department disburses aid to a political subdivision for a project, the
11 department shall notify the political subdivision whether the aid includes federal
12 moneys and which project components must be paid for with federal moneys, if any.

13 **(3)** For any project meeting all of the following criteria, the department may
14 not require a political subdivision to comply with any portion of the department’s
15 facilities development manual other than design standards:

16 (a) The project proposal is reviewed and approved by a professional engineer
17 or by the highway commissioner for the county in which the project will be located.

18 (b) The project is conducted by a political subdivision with no expenditure of
19 federal money.

20 **SECTION 95.** 106.05 (2) (b) (intro.) of the statutes is amended to read:

21 106.05 **(2)** (b) (intro.) Subject to par. (c) and sub. (3), from the appropriation
22 under s. 20.445 (1) ~~(b)~~ (dr), the department may provide to an apprentice described
23 in par. (a) 1. or the apprentice’s sponsor a completion award equal to 25 percent of
24 the cost of tuition incurred by the apprentice or sponsor or \$1,000, whichever is less.

SENATE BILL 887**SECTION 95**

1 If the department provides a completion award under this subsection, the
2 department shall pay the award as follows:

3 **SECTION 96.** 106.05 (3) (a) of the statutes is amended to read:

4 106.05 (3) (a) If the amount of funds to be distributed under sub. (2) exceeds
5 the amount available in the appropriation under s. 20.445 (1) ~~(b)~~ (dr) for completion
6 awards under sub. (2), the department may reduce the reimbursement percentage
7 or deny applications for completion awards that would otherwise qualify under sub.
8 (2). In that case, the department shall determine the reimbursement percentage and
9 eligibility on the basis of the dates on which apprentices and sponsors become eligible
10 for completion awards.

11 **SECTION 97.** 106.13 (3m) (b) (intro.) of the statutes is amended to read:

12 106.13 (3m) (b) (intro.) From the appropriation under s. 20.445 (1) ~~(b)~~ (e), the
13 department may award grants to applying local partnerships for the implementation
14 and coordination of local youth apprenticeship programs. A local partnership shall
15 include in its grant application the identity of each public agency, nonprofit
16 organization, individual, and other person who is a participant in the local
17 partnership, a plan to accomplish the implementation and coordination activities
18 specified in subs. 1. to 6., and the identity of a fiscal agent who ~~shall be~~ is responsible
19 for receiving, managing, and accounting for the grant moneys received under this
20 paragraph. Subject to par. (c), a local partnership that is awarded a grant under this
21 paragraph may use the grant moneys awarded for any of the following
22 implementation and coordination activities:

23 **SECTION 98.** 106.18 of the statutes is amended to read:

SENATE BILL 887**SECTION 98**

1 **106.18 Youth programs in 1st class cities.** From the appropriation account
2 under s. 20.445 (1) ~~(b)~~ (fm), the department shall implement and operate youth
3 summer jobs programs in 1st class cities.

4 **SECTION 99.** 106.26 (3) (c) (intro.) of the statutes is amended to read:

5 106.26 **(3)** (c) (intro.) To make grants from the appropriation under s. 20.445
6 (1) ~~(b)~~ (fg) to eligible applicants to conduct projects or to match a federal grant
7 awarded to an eligible applicant to conduct a project. Grants by the department are
8 subject to all of the following requirements:

9 **SECTION 100.** 106.272 (1) of the statutes is amended to read:

10 106.272 **(1)** From the appropriation under s. 20.445 (1) ~~(b)~~ (dg), the department
11 shall award grants to the school board of a school district or to the governing body
12 of a private school, as defined under s. 115.001 (3d), or to a charter management
13 organization that has partnered with an educator preparation program approved by
14 the department of public instruction and headquartered in this state to design and
15 implement a teacher development program.

16 **SECTION 101.** 106.273 (3) (a) (intro.) of the statutes is amended to read:

17 106.273 **(3)** (a) (intro.) From the appropriation under s. 20.445 (1) ~~(b)~~ (bz), the
18 department shall ~~allocate not less than \$3,500,000 in each fiscal year for incentive~~
19 ~~grants to school districts under this subsection. From that allocation, the~~
20 ~~department shall~~ annually award all of the following incentive grants to school
21 districts:

22 **SECTION 102.** 106.273 (3) (b) of the statutes is amended to read:

23 106.273 **(3)** (b) If the amount ~~allocated under par. (a)~~ available in the
24 appropriation under s. 20.445 (1) (bz) in any fiscal year is insufficient to pay the full
25 amount per student under par. (a) 1m. and 2m., the department may prorate the

SENATE BILL 887**SECTION 102**

1 amount of the department's payments among school districts eligible for incentive
2 grants under this subsection.

3 **SECTION 103.** 106.275 (1) (a) of the statutes is amended to read:

4 106.275 (1) (a) From the appropriation under s. 20.445 (1) ~~(b)~~ (cg), the
5 department ~~may allocate up to \$500,000 in each fiscal year for technical education~~
6 ~~equipment grants to school districts under this section. From that allocation, the~~
7 ~~department~~ may award technical education equipment grants under this section in
8 the amount of not more than \$50,000 to school districts whose grant applications are
9 approved under sub. (2) (b).

10 **SECTION 104.** 108.04 (2) (a) (intro.) of the statutes is amended to read:

11 108.04 (2) (a) (intro.) Except as provided in ~~par. pars.~~ par. (b) and to (bd), sub. (16)
12 (am) and (b), and s. 108.062 (10) and (10m) and as otherwise expressly provided, a
13 claimant is eligible for benefits as to any given week only if all of the following apply:

14 **SECTION 105.** 108.04 (2) (a) 1. of the statutes is amended to read:

15 108.04 (2) (a) 1. ~~Except as provided in s. 108.062 (10), the individual~~ The
16 claimant is able to work and available for work during that week;

17 **SECTION 106.** 108.04 (2) (a) 2. of the statutes is amended to read:

18 108.04 (2) (a) 2. ~~Except as provided in s. 108.062 (10m), as of that week, the~~
19 ~~individual~~ The claimant has registered for work as ~~directed~~ in the manner prescribed
20 by the department; by rule.

21 **SECTION 107.** 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2)
22 (a) 3. and amended to read:

23 108.04 (2) (a) 3. The ~~individual~~ claimant conducts a reasonable search for
24 suitable work during that week, ~~unless the search requirement is waived under par.~~
25 ~~(b) or s. 108.062 (10m)~~ and provides verification of that search to the department.

SENATE BILL 887**SECTION 107**

1 The search for suitable work must include at least 4 actions per week that constitute
2 a reasonable search as prescribed by rule of the department. In addition, the
3 department may, by rule, require ~~an individual~~ a claimant to take more than 4
4 reasonable work search actions in any week. The department shall require a
5 uniform number of reasonable work search actions for similar types of claimants.
6 ~~This subdivision does not apply to an individual if the department determines that~~
7 ~~the individual is currently laid off from employment with an employer but there is~~
8 ~~a reasonable expectation of reemployment of the individual by that employer. In~~
9 ~~determining whether the individual has a reasonable expectation of reemployment~~
10 ~~by an employer, the department shall request the employer to verify the individual's~~
11 ~~employment status and shall also consider other factors, including:~~

12 **SECTION 108.** 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)

13 (b) 1. a. to c. and amended to read:

14 108.04 (2) (b) 1. a. The history of layoffs and reemployments by the employer;

15 b. Any information that the employer furnished to the individual claimant or
16 the department concerning the individual's claimant's anticipated reemployment
17 date; and,

18 c. Whether the individual claimant has recall rights with the employer under
19 the terms of any applicable collective bargaining agreement; and,

20 **SECTION 109.** 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) (intro.)
21 and amended to read:

22 108.04 (2) (b) (intro.) ~~The requirements for registration for work and search for~~
23 ~~work shall be prescribed by rule of the department, and the department may by~~
24 general rule shall, except as provided under par. (bd), waive these requirements the

SENATE BILL 887**SECTION 109**

1 registration for work requirement under certain stated conditions. par. (a) 2. if any
2 of the following applies:

3 **SECTION 110.** 108.04 (2) (b) 1. (intro.) of the statutes is created to read:

4 108.04 (2) (b) 1. (intro.) The department determines that the claimant is
5 currently laid off from employment with an employer but there is a reasonable
6 expectation of reemployment of the claimant by that employer within a period of 8
7 weeks, which may be extended up to an additional 4 weeks but not to exceed a total
8 of 12 weeks. In determining whether the claimant has a reasonable expectation of
9 reemployment by an employer, the department shall request the employer to verify
10 the claimant's employment status and shall consider all of the following:

11 **SECTION 111.** 108.04 (2) (b) 2. to 6. of the statutes are created to read:

12 108.04 (2) (b) 2. The claimant has a reasonable expectation of starting
13 employment with a new employer within 4 weeks and the employer has verified the
14 anticipated starting date with the department. A waiver under this subdivision may
15 not exceed 4 weeks.

16 3. The claimant has been laid off from work and routinely obtains work through
17 a labor union referral and all of the following apply:

18 a. The union is the primary method used by workers to obtain employment in
19 the claimant's customary occupation.

20 b. The union maintains records of unemployed members and the referral
21 activities of these members, and the union allows the department to inspect those
22 records.

23 c. The union provides, upon the request of the department, any information
24 regarding a claimant's registration with the union or any referrals for employment
25 it has made to the claimant.

SENATE BILL 887**SECTION 111**

1 d. Prospective employers of the claimant seldom place orders with the public
2 employment office for jobs requiring occupational skills similar to those of the
3 claimant.

4 e. The claimant is registered for work with a union and satisfies the
5 requirements of the union relating to job referral procedures, and maintains
6 membership in good standing with the union.

7 f. The union enters into an agreement with the department regarding the
8 requirements of this subdivision.

9 4. The claimant is summoned to serve as a prospective or impaneled juror.

10 5. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
11 claimant is enrolled in and satisfactorily participating in a self-employment
12 assistance program or another program established under state or federal law and
13 the program provides that claimants who participate in the program shall be waived
14 by the department from work registration requirements.

15 6. The claimant is unable to complete registration due to circumstances that
16 the department determines are beyond the claimant's control.

17 **SECTION 112.** 108.04 (2) (bb) of the statutes is created to read:

18 108.04 (2) (bb) The department shall, except as provided under par. (bd), waive
19 the work search requirement under par. (a) 3. if any of the following applies:

20 1. A reason specified in par (b) 1., 2., 3., or 4.

21 2. The claimant performs any work for his or her customary employer.

22 3. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
23 claimant is enrolled in and satisfactorily participating in a self-employment
24 assistance program or another program established under state or federal law and

SENATE BILL 887**SECTION 112**

1 the program provides that claimants who participate in the program shall be waived
2 by the department from work search requirements.

3 4. The claimant has not complied with the requirement because of an error
4 made by personnel of the department.

5 5. The claimant's most recent employer failed to post appropriate notice posters
6 as to claiming unemployment benefits as required by the department by rule, and
7 the claimant was not aware of the work search requirement.

8 6. The claimant has been referred for reemployment services, is participating
9 in such services, or is not participating in such services, but has good cause for failure
10 to participate. For purposes of this subdivision, a claimant has good cause if he or she
11 is unable to participate due to any of the following:

12 a. A reason specified in subd. 3. or par (b) 4.

13 b. The claimant is employed.

14 c. The claimant is attending a job interview.

15 d. Circumstances that the department determines are beyond the claimant's
16 control.

17 **SECTION 113.** 108.04 (2) (bd) of the statutes is created to read:

18 108.04 (2) (bd) The department may, by rule, do any of the following if doing
19 so is necessary to comply with a requirement under federal law or is specifically
20 allowed under federal law:

21 1. Modify the availability of any waiver under par. (b) or (bb).

22 2. Establish additional waivers from the requirements under par. (a) 2. and 3.

23 **SECTION 114.** 108.04 (2) (bm) of the statutes is amended to read:

24 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
25 which there is a determination that the claimant failed to ~~conduct a reasonable~~

SENATE BILL 887**SECTION 114**

1 ~~search for suitable~~ comply with the registration for work and work and search
2 requirements under par. (a) 2. or 3. or failed to provide verification to the department
3 that the claimant complied with those requirements, unless the department has ~~not~~
4 ~~waived the search requirement~~ those requirements under par. (b), (bb), or (bd) or s.
5 108.062 (10m). If the department has paid benefits to a claimant for any such week,
6 the department may recover the overpayment under s. 108.22.

7 **SECTION 115.** 165.055 (3) of the statutes is repealed.

8 **SECTION 116.** 165.07 of the statutes is created to read:

9 **165.07 Intervention by joint committee on legislative organization.** If
10 the joint committee on legislative organization intervenes in an action in state or
11 federal court as permitted under s. 803.09 (2m), the attorney general shall notify the
12 court of the substitution of counsel by special counsel appointed by the joint
13 committee on legislative organization and may not participate in the action.

14 **SECTION 117.** 165.08 of the statutes is renumbered 165.08 (1) and amended to
15 read:

16 165.08 (1) Any civil action prosecuted by the department by direction of any
17 officer, department, board, or commission, ~~shall be compromised or discontinued~~
18 ~~when so directed by such officer, department, board or commission.~~ Any or any civil
19 action prosecuted by the department on the initiative of the attorney general, or at
20 the request of any individual may be compromised or discontinued with the approval
21 of the governor only by submission of a proposed plan to the joint committee on
22 finance for the approval of the committee. The compromise or discontinuance may
23 occur only if the joint committee on finance approves the proposed plan. No proposed
24 plan may be submitted to the joint committee on finance if the plan concedes the
25 unconstitutionality or other invalidity of a statute, facially or as applied, or concedes

SENATE BILL 887**SECTION 117**

1 that a statute violates or is preempted by federal law, without the approval of the
2 joint committee on legislative organization.

3 **(2)** In any criminal action prosecuted by the attorney general, the department
4 shall have the same powers with reference to such action as are vested in district
5 attorneys.

6 **SECTION 118.** 165.10 of the statutes, as created by 2017 Wisconsin Act 59, is
7 amended to read:

8 **165.10 Limits on expenditure Deposit of discretionary settlement**
9 **funds.** Notwithstanding s. 20.455 (3), before the The attorney general may expend
10 shall deposit all settlement funds under s. 20.455 (3) (g) that are not committed
11 under the terms of the settlement, the attorney general shall submit to the joint
12 committee on finance a proposed plan for the expenditure of the funds. If the
13 cochairpersons of the committee do not notify the attorney general within 14 working
14 days after the submittal that the committee has scheduled a meeting for the purpose
15 of reviewing the proposed plan, the attorney general may expend the funds to
16 implement the proposed plan. If, within 14 working days after the submittal, the
17 cochairpersons of the committee notify the attorney general that the committee has
18 scheduled a meeting for the purpose of reviewing the proposed plan, the attorney
19 general may expend the funds only to implement the plan as approved by the
20 committee into the general fund.

21 **SECTION 119.** 165.25 (1) of the statutes is amended to read:

22 165.25 (1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in
23 ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), if the joint committee on legislative
24 organization does not intervene as permitted under s. 803.09 (2m), appear for the
25 state and prosecute or defend all actions and proceedings, civil or criminal, in the

SENATE BILL 887**SECTION 119**

1 court of appeals and the supreme court, in which the state is interested or a party,
2 and attend to and prosecute or defend all civil cases sent or remanded to any circuit
3 court in which the state is a party. ~~Nothing~~ The joint committee on legislative
4 organization may intervene as permitted under s. 803.09 (2m) at any time, and if the
5 committee intervenes, the attorney general shall notify the court of the substitution
6 of counsel by special counsel appointed by the committee to represent the state and
7 may not participate in the action, proceeding, or case. Unless the joint committee on
8 legislative organization intervenes as permitted under s. 803.09 (2m), nothing in this
9 subsection deprives or relieves the attorney general or the department of justice of
10 any authority or duty under this chapter in any other matter.

11 **SECTION 120.** 165.25 (1m) of the statutes is amended to read:

12 165.25 (1m) REPRESENT STATE IN OTHER MATTERS. If the joint committee on
13 legislative organization does not intervene as permitted under s. 803.09 (2m), if
14 requested by the governor or either house of the legislature, appear for and represent
15 the state, any state department, agency, official, employee or agent, whether
16 required to appear as a party or witness in any civil or criminal matter, and prosecute
17 or defend in any court or before any officer, any cause or matter, civil or criminal, in
18 which the state or the people of this state may be interested. The joint committee on
19 legislative organization may intervene as permitted under s. 803.09 (2m) at any
20 time, and if the committee intervenes, the attorney general shall notify the court of
21 the substitution of counsel by special counsel appointed by the committee to
22 represent the state and may not participate in the cause or matter. The public service
23 commission may request under s. 196.497 (7) that the attorney general intervene in
24 federal proceedings. All expenses of the proceedings shall be paid from the
25 appropriation under s. 20.455 (1) (d).

SENATE BILL 887**SECTION 121**

1 **SECTION 121.** 165.25 (6) (a) of the statutes is renumbered 165.25 (6) (a) 1. and
2 amended to read:

3 165.25 **(6)** (a) 1. ~~At~~ Except as provided in ss. 806.04 (11) and 893.825 (2), at the
4 request of the head of any department of state government, the attorney general may
5 appear for and defend any state department, or any state officer, employee, or agent
6 of the department in any civil action or other matter brought before a court or an
7 administrative agency which is brought against the state department, or officer,
8 employee, or agent for or on account of any act growing out of or committed in the
9 lawful course of an officer's, employee's, or agent's duties. Witness fees or other
10 expenses determined by the attorney general to be reasonable and necessary to the
11 defense in the action or proceeding shall be paid as provided for in s. 885.07. The
12 attorney general may compromise and settle the action as the attorney general
13 determines to be in the best interest of the state except that, if the action is for
14 injunctive relief or there is a proposed consent decree, the attorney general may not
15 compromise or settle the action without first submitting a proposed plan to the joint
16 committee on finance. If, within 14 working days after the plan is submitted, the
17 cochairpersons of the committee notify the attorney general that the committee has
18 scheduled a meeting for the purpose of reviewing the proposed plan, the attorney
19 general may compromise or settle the action only with the approval of the committee.
20 The attorney general may not submit a proposed plan to the joint committee on
21 finance under this subdivision in which the plan concedes the unconstitutionality or
22 other invalidity of a statute, facially or as applied, or concedes that a statute violates
23 or is preempted by federal law, without the approval of the joint committee on
24 legislative organization.

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1 2. Members, officers, and employees of the Wisconsin state agencies building
2 corporation and the Wisconsin state public building corporation are covered by this
3 section. Members of the board of governors created under s. 619.04 (3), members of
4 a committee or subcommittee of that board of governors, members of the injured
5 patients and families compensation fund peer review council created under s.
6 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are
7 covered by this section with respect to actions, claims, or other matters arising
8 before, on, or after April 25, 1990. The attorney general may compromise and settle
9 claims asserted before such actions or matters formally are brought or may delegate
10 such authority to the department of administration. This paragraph may not be
11 construed as a consent to sue the state or any department thereof or as a waiver of
12 state sovereign immunity.

13 **SECTION 122.** 227.01 (3m) of the statutes is created to read:

14 227.01 (3m) (a) "Guidance document" means, except as provided in par. (b), any
15 formal or official document or communication issued by an agency, including a
16 manual, handbook, directive, or informational bulletin, that does any of the
17 following:

18 1. Explains the agency's implementation of a statute or rule enforced or
19 administered by the agency, including the current or proposed operating procedure
20 of the agency.

21 2. Provides guidance or advice with respect to how the agency is likely to apply
22 a statute or rule enforced or administered by the agency, if that guidance or advice
23 is likely to apply to a class of persons similarly affected.

24 (b) "Guidance document" does not include any of the following:

SENATE BILL 887**SECTION 122**

1 1. A rule that has been promulgated and that is currently in effect or a proposed
2 rule that is in the process of being promulgated.

3 2. A standard adopted, or a statement of policy or interpretation made, whether
4 preliminary or final, in the decision of a contested case, in a private letter ruling
5 under s. 73.035, or in an agency decision upon or disposition of a particular matter
6 as applied to a specific set of facts.

7 3. Any document or activity described in sub. (13) (a) to (zz), except that
8 “guidance document” includes a pamphlet or other explanatory material described
9 under sub. (13) (r) that otherwise satisfies the definition of “guidance document”
10 under par. (a).

11 4. Any document that any statute specifically provides is not required to be
12 promulgated as a rule.

13 5. A declaratory ruling issued under s. 227.41.

14 6. A pleading or brief filed in court by the state, an agency, or an agency official.

15 7. A letter or written legal advice of the department of justice or a formal or
16 informal opinion of the attorney general, including an opinion issued under s.
17 165.015 (1).

18 8. Any document or communication for which a procedure for public input,
19 other than that provided under s. 227.112 (1), is provided by law.

20 9. Any document or communication that is not subject to the right of inspection
21 and copying under s. 19.35 (1).

22 **SECTION 123.** 227.01 (13) (intro.) of the statutes is amended to read:

23 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,
24 or general order of general application ~~which that~~ has the effect force of law and
25 ~~which that~~ is issued by an agency to implement, interpret, or make specific

SENATE BILL 887**SECTION 123**

1 legislation enforced or administered by the agency or to govern the organization or
2 procedure of the agency. “Rule” includes a modification of a rule under s. 227.265.
3 “Rule” does not include, and s. 227.10 does not apply to, any action or inaction of an
4 agency, whether it would otherwise meet the definition under this subsection, ~~which~~
5 that:

6 **SECTION 124.** 227.05 of the statutes is created to read:

7 **227.05 Agency publications.** An agency shall identify the applicable
8 provision of federal law or the applicable state statutory or administrative code
9 provision that supports any statement or interpretation of law that the agency
10 makes in any publication, whether in print or on the agency’s Internet site, including
11 guidance documents, forms, pamphlets, or other informational materials, regarding
12 the laws the agency administers.

13 **SECTION 125.** Subchapter II (title) of chapter 227 [precedes 227.10] of the
14 statutes is amended to read:

15 **CHAPTER 227**

16 **SUBCHAPTER II**

17 **ADMINISTRATIVE RULES AND**

18 **GUIDANCE DOCUMENTS**

19 **SECTION 126.** 227.10 (2g) of the statutes is created to read:

20 227.10 (2g) No agency may seek deference in any proceeding based on the
21 agency’s interpretation of any law.

22 **SECTION 127.** 227.11 (title) of the statutes is amended to read:

23 **227.11 (title) ~~Extent to which chapter confers~~ Agency rule-making**
24 **authority.**

25 **SECTION 128.** 227.11 (3) of the statutes is created to read:

SENATE BILL 887**SECTION 128**

1 227.11 (3) (a) A plan that is submitted to the federal government for the
2 purpose of complying with a requirement of federal law does not confer rule-making
3 authority and cannot be used by an agency as authority to promulgate rules. No
4 agency may agree to promulgate a rule as a component of a compliance plan unless
5 the agency has explicit statutory authority to promulgate the rule at the time the
6 compliance plan is submitted.

7 (b) A settlement agreement, consent decree, or court order does not confer
8 rule-making authority and cannot be used by an agency as authority to promulgate
9 rules. No agency may agree to promulgate a rule as a term in any settlement
10 agreement, consent decree, or stipulated order of a court unless the agency has
11 explicit statutory authority to promulgate the rule at the time the settlement
12 agreement, consent decree, or stipulated order of a court is executed.

13 **SECTION 129.** 227.112 of the statutes is created to read:

14 **227.112 Guidance documents. (1)** (a) Before adopting a guidance document,
15 an agency shall submit to the legislative reference bureau the proposed guidance
16 document with a notice of a public comment period on the proposed guidance
17 document under par. (b), in a format approved by the legislative reference bureau,
18 for publication in the register. The notice shall specify the place where comments
19 should be submitted and the deadline for submitting those comments.

20 (b) The agency shall provide for a period for public comment on a proposed
21 guidance document submitted under par. (a), during which any person may submit
22 written comments to the agency with respect to the proposed guidance document.
23 Except as provided in par. (c), the period for public comment shall end no sooner than
24 the 21st day after the date on which the proposed guidance document is published
25 in the register under s. 35.93 (2) (b) 3. im. The agency may not adopt the proposed

SENATE BILL 887**SECTION 129**

1 guidance document until the comment period has concluded and the agency has
2 complied with par. (d).

3 (c) An agency may hold a public comment period shorter than 21 days with the
4 approval of the governor.

5 (d) An agency shall retain all written comments submitted during the public
6 comment period under par. (b) and shall consider those comments in determining
7 whether to adopt the guidance document as originally proposed, modify the proposed
8 guidance document, or take any other action.

9 **(2)** An agency shall post each guidance document that the agency has adopted
10 on the agency's Internet site and shall permit continuing public comment on the
11 guidance document. The agency shall ensure that each guidance document that the
12 agency has adopted remains on the agency's Internet site as provided in this
13 subsection until the guidance document is no longer in effect, is no longer valid, or
14 is superseded or until the agency otherwise rescinds its adoption of the guidance
15 document.

16 **(3)** A guidance document does not have the force of law and does not provide
17 the authority for implementing or enforcing a standard, requirement, or threshold,
18 including as a term or condition of any license. An agency that proposes to rely on
19 a guidance document to the detriment of a person in any proceeding shall afford the
20 person an adequate opportunity to contest the legality or wisdom of a position taken
21 in the guidance document. An agency may not use a guidance document to foreclose
22 consideration of any issue raised in the guidance document.

23 **(4)** If an agency proposes to act in any proceeding at variance with a position
24 expressed in a guidance document, it shall provide a reasonable explanation for the
25 variance. If an affected person in any proceeding may have relied reasonably on the

SENATE BILL 887**SECTION 129**

1 agency's position, the explanation must include a reasonable justification for the
2 agency's conclusion that the need for the variance outweighs the affected person's
3 reliance interest.

4 (5) Persons that qualify under s. 227.12 to petition an agency to promulgate
5 a rule may, as provided in s. 227.12, petition an agency to promulgate a rule in place
6 of a guidance document.

7 (6) Any guidance document shall be signed by the secretary or head of the
8 agency below the following certification: "I have reviewed this guidance document
9 or proposed guidance document and I certify that it complies with sections 227.10
10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document
11 or proposed guidance document contains no standard, requirement, or threshold
12 that is not explicitly required or explicitly permitted by a statute or a rule that has
13 been lawfully promulgated. I further certify that the guidance document or proposed
14 guidance document contains no standard, requirement, or threshold that is more
15 restrictive than a standard, requirement, or threshold contained in the Wisconsin
16 Statutes."

17 (7) This section does not apply to guidance documents adopted before the first
18 day of the 7th month beginning after the effective date of this subsection [LRB
19 inserts date], but on that date any guidance document that has not been adopted in
20 accordance with sub. (1) or that does not contain the certification required under sub.
21 (6) shall be considered rescinded.

22 (8) The legislative council staff shall provide agencies with assistance in
23 determining whether documents and communications are guidance documents that
24 are subject to the requirements under this section.

25 **SECTION 130.** 227.13 of the statutes is amended to read:

SENATE BILL 887**SECTION 130**

1 **227.13 Advisory committees and informal consultations.** An agency may
2 use informal conferences and consultations to obtain the viewpoint and advice of
3 interested persons with respect to contemplated rule making. An agency also may
4 also appoint a committee of experts, interested persons or representatives of the
5 public to advise it with respect to any contemplated rule making. The Such a
6 committee shall have advisory powers only. Whenever an agency appoints a
7 committee under this section, the agency shall submit a list of the members of the
8 committee to the joint committee for review of administrative rules.

9 **SECTION 131.** 227.135 (1) (g) of the statutes is created to read:

10 227.135 (1) (g) A statement as to whether the agency anticipates that the
11 proposed rule will have minimal or no economic impact, a moderate economic impact,
12 or a significant economic impact, whether locally, statewide, or on a sector of the
13 economy.

14 **SECTION 132.** 227.135 (1) (h) of the statutes is created to read:

15 227.135 (1) (h) For a proposed emergency rule promulgated under s. 227.24,
16 an explanation of why the rule is necessary for the preservation of the public peace,
17 health, safety, or welfare. If the rule is exempt from the required finding of
18 emergency, the statement of scope shall cite the act number and section or the statute
19 section authorizing the promulgation of an emergency rule or a statement that the
20 rule is promulgated at the direction of the joint committee for review of
21 administrative rules under s. 227.26 (2) (b). The agency shall also include a
22 statement as to whether the agency will promulgate a corresponding permanent rule
23 and the agency's anticipated time line for promulgating the permanent rule.

24 **SECTION 133.** 227.135 (2) of the statutes is renumbered 227.135 (2) (a) 1. and
25 amended to read:

SENATE BILL 887**SECTION 133**

1 227.135 (2) (a) 1. ~~An~~ Except as provided in subd. 2., an agency that has
2 prepared a statement of the scope of the proposed rule shall present the statement
3 to the department of administration, which shall make a determination as to
4 whether the agency has the explicit authority to promulgate the rule as proposed in
5 the statement of scope and shall report the statement of scope and its determination
6 to the governor who, in his or her discretion, may approve or reject the statement of
7 scope. ~~The~~ Except as provided in subd. 2., the agency may not send the statement
8 to the legislative reference bureau for publication under sub. (3) until the governor
9 issues a written notice of approval of the statement and may not, without the written
10 approval of the governor, send the statement to the legislative reference bureau for
11 publication under sub. (3) more than 30 days after the date of the governor's approval
12 of the statement of scope.

13 (b) ~~The~~ An agency that has prepared a statement of the scope of the proposed
14 rule shall also present the statement to the individual or body with policy-making
15 powers over the subject matter of the proposed rule for approval. The individual or
16 body with policy-making powers may not approve the statement until at least 10
17 days after publication of the statement under sub. (3) and, if a preliminary public
18 hearing and comment period are held by the agency under s. 227.136, until the
19 individual or body has received and reviewed any public comments and feedback
20 received from the agency under s. 227.136 (5).

21 (c) No state employee or official may perform any activity in connection with
22 the drafting of a proposed rule, except for an activity necessary to prepare the
23 statement of the scope of the proposed rule, ~~until the governor and the individual or~~
24 ~~body with policy-making powers over the subject matter of the proposed rule~~
25 ~~approve the statement~~ has been approved as required under pars. (a) and (b). This

SENATE BILL 887**SECTION 133**

1 ~~subsection paragraph~~ does not prohibit an agency from performing an activity
2 necessary to prepare a petition and proposed rule for submission under s. 227.26 (4).

3 **SECTION 134.** 227.135 (2) (a) 2. of the statutes is created to read:

4 227.135 (2) (a) 2. The requirement under subd. 1. does not apply to statements
5 of scope prepared by the department of public instruction.

6 **SECTION 135.** 227.135 (3) of the statutes is amended to read:

7 227.135 (3) ~~If the governor approves a~~ An agency that prepares a statement
8 of the scope of a proposed rule under sub. (2), ~~the agency (1) shall, subject to sub. (2)~~
9 (a) 1., send an electronic copy of the statement to the legislative reference bureau,
10 in a format approved by the legislative reference bureau, for publication in the
11 register. On the same day that the agency sends the statement to the legislative
12 reference bureau, the agency shall send a copy of the statement to the secretary of
13 administration and to the chief clerks of each house of the legislature, who shall
14 distribute the statement to the cochairpersons of the joint committee for review of
15 administrative rules. The agency shall include with any statement of scope sent to
16 the legislative reference bureau the date of the governor's approval of the statement
17 of scope if such approval is required under sub. (2) (a). The legislative reference
18 bureau shall assign a discrete identifying number to each statement of scope and
19 shall include that number and the date of the governor's approval, if required, in the
20 publication of the statement of scope in the register.

21 **SECTION 136.** 227.135 (4) of the statutes is renumbered 227.135 (4) (a) (intro.)
22 and amended to read:

23 227.135 (4) (a) (intro.) If at any time after a statement of the scope of a proposed
24 rule is approved under sub. (2) the agency changes the scope of the proposed rule in
25 any meaningful or measurable way, ~~including changing the scope of the proposed~~

SENATE BILL 887**SECTION 136**

1 rule so as to include in the scope any activity, business, material, or product that is
2 not specifically included in the original scope of the proposed rule, the agency shall
3 prepare and obtain approval of a revised statement of the scope of the proposed rule
4 in the same manner as the original statement was prepared and approved under
5 subs. (1) and (2). No For purposes of this subsection, a meaningful or measurable
6 change includes any of the following:

7 (b) Whenever an agency is required to prepare a revised statement of scope
8 under this subsection, no state employee or official may perform any activity in
9 connection with the drafting of the proposed rule except for an activity necessary to
10 prepare the revised statement of the scope of the proposed rule until the revised
11 statement is so approved as provided in sub. (2).

12 **SECTION 137.** 227.135 (4) (a) 1. to 6. of the statutes are created to read:

13 227.135 (4) (a) 1. A change to the objectives of the proposed rule.

14 2. A change to the basis and purpose of the proposed rule.

15 3. A change to the policies to be included in the proposed rule.

16 4. A change to the entities affected by the proposed rule.

17 5. A change to the overall breadth or scope of the regulation in the proposed
18 rule.

19 6. A change to the scope of the proposed rule so as to include in the scope any
20 activity, business, material, or product that is not specifically included in the original
21 statement.

22 **SECTION 138.** 227.135 (6) of the statutes is created to read:

23 227.135 (6) An agency that intends to concurrently promulgate an emergency
24 rule and a permanent rule that are identical in substance may submit one statement
25 of scope indicating this intent.

SENATE BILL 887**SECTION 139**

1 **SECTION 139.** 227.137 (2) of the statutes is amended to read:

2 227.137 (2) An agency shall prepare an economic impact analysis for a
3 proposed rule before submitting the proposed rule to the legislative council staff
4 under s. 227.15. Prior to preparing an economic impact analysis as provided in this
5 subsection, the agency shall review the statement of scope for the proposed rule
6 prepared under s. 227.135 to determine whether a revised statement of scope is
7 required under s. 227.135 (4).

8 **SECTION 140.** 227.137 (2m) of the statutes is created to read:

9 227.137 (2m) An agency's economic impact analysis under sub. (2) or revised
10 economic impact analysis under sub. (4) shall be prepared and submitted separately
11 from any fiscal estimate or revised fiscal estimate prepared and submitted under s.
12 227.14 (4) (a) or (d).

13 **SECTION 141.** 227.137 (3) (e) of the statutes is renumbered 227.137 (3) (e)
14 (intro.) and amended to read:

15 227.137 (3) (e) (intro.) A determination made in consultation with the
16 businesses, local governmental units, and individuals that may be affected by the
17 proposed rule as to whether the proposed rule would adversely affect in a material
18 way the economy, a sector of the economy, productivity, jobs, or the overall economic
19 competitiveness of this state. The agency shall make the determination required
20 under this paragraph by doing all of the following:

21 **SECTION 142.** 227.137 (3) (e) 1. to 4. of the statutes are created to read:

22 227.137 (3) (e) 1. Compiling a list of affected persons and potential economic
23 concerns identified in the comments solicited by the agency.

24 2. Contacting affected persons to discuss economic concerns.

25 3. Considering any raised concerns in drafting the economic impact analysis.

SENATE BILL 887**SECTION 142**

1 4. Documenting in the economic impact analysis the persons who were
2 consulted and whether the agency's determination is disputed by any of the affected
3 persons.

4 **SECTION 143.** 227.137 (3m) of the statutes is created to read:

5 227.137 (3m) (a) When soliciting comments under sub. (3) for an economic
6 impact analysis, an agency shall accept comments for a period of at least 14 calendar
7 days if, under s. 227.135 (1) (g), the statement of scope for the proposed rule indicates
8 that the proposed rule will have minimal or no economic impact, at least 30 calendar
9 days if it indicates a moderate economic impact, and at least 60 calendar days if it
10 indicates a significant economic impact or if the agency anticipates that the proposed
11 rule will result in \$10,000,000 or more in implementation and compliance costs being
12 incurred by or passed along to businesses, local governmental units, and individuals
13 over any 2-year period. If the agency subsequently determines that the anticipated
14 economic impact will be greater than indicated in the statement of scope, the agency
15 shall adjust the comment period accordingly. An agency may not reduce a comment
16 period once determined under this subsection.

17 (b) This subsection does not apply to a person preparing an independent
18 economic impact analysis under sub. (4m).

19 **SECTION 144.** 227.137 (4) of the statutes is amended to read:

20 227.137 (4) On the same day that the agency submits the economic impact
21 analysis to the legislative council staff under s. 227.15 (1), the agency shall also
22 submit that analysis to the department of administration, to the governor, and to the
23 chief clerks of each house of the legislature, who shall distribute the analysis to the
24 presiding officers of their respective houses, to the chairpersons of the appropriate
25 standing committees of their respective houses, as designated by those presiding

SENATE BILL 887**SECTION 144**

1 officers, and to the cochairpersons of the joint committee for review of administrative
2 rules. If a proposed rule is modified after the economic impact analysis is submitted
3 under this subsection so that the economic impact of the proposed rule is
4 significantly changed, the agency shall prepare a revised economic impact analysis
5 for the proposed rule as modified. For purposes of this subsection, a significant
6 change includes an increase or a decrease of at least 10 percent or \$50,000, whichever
7 is greater, in the expected implementation and compliance costs reasonably expected
8 to be incurred by or passed along to a majority of the businesses, local governmental
9 units, and individuals as a result of the proposed rule, as identified under sub. (3) (b),
10 or a significant change in the persons expected to be affected by the proposed rule.

11 A revised economic impact analysis shall be prepared and submitted in the same
12 manner as an original economic impact analysis is prepared and submitted.

13 **SECTION 145.** 227.138 (1) (intro.) of the statutes is renumbered 227.138 (1) and
14 amended to read:

15 227.138 (1) The joint committee for review of administrative rules may direct
16 an agency to prepare a retrospective economic impact analysis for any of an agency's
17 rules that are published in the code. The committee may identify one or more specific
18 chapters, sections, or other subunits in the code that are administered by the agency
19 as the rules that are to be the subject of the analysis and may specify a deadline for
20 the preparation of the analysis.

21 **(1r)** A retrospective economic impact analysis shall contain information on the
22 economic effect of the rules on specific businesses, business sectors, public utility
23 ratepayers, local governmental units, and the state's economy as a whole. When
24 preparing the analysis, the agency or person preparing the analysis shall solicit
25 information and advice from businesses, associations representing businesses, local

SENATE BILL 887**SECTION 145**

1 governmental units, and individuals that have been affected by the rules. The
2 agency or person shall prepare the retrospective economic impact analysis in
3 coordination with local governmental units that have been affected by the rules. The
4 agency or person may request information that is reasonably necessary for the
5 preparation of a retrospective economic impact analysis from other businesses,
6 associations, local governmental units, and individuals and from other agencies.
7 The retrospective economic impact analysis shall include all of the following:

8 **SECTION 146.** 227.138 (1) (a) to (h) of the statutes are renumbered 227.138 (1r)
9 (a) to (h).

10 **SECTION 147.** 227.138 (1g) of the statutes is created to read:

11 227.138 (1g) Within 90 days after an agency submits a retrospective economic
12 impact analysis under sub. (2), either cochairperson of the joint committee for review
13 of administrative rules may request an independent retrospective economic impact
14 analysis to be prepared using the same procedure and payment methods described
15 under s. 227.137 (4m) (am) and (b). A person preparing an independent retrospective
16 economic impact analysis under this subsection shall prepare the independent
17 retrospective economic impact analysis for the same rules that were the subject of
18 the agency's analysis under sub. (1) and shall include the information that is
19 required under sub. (1r).

20 **SECTION 148.** 227.138 (2) of the statutes is amended to read:

21 227.138 (2) An agency or person that prepares a retrospective economic impact
22 analysis under sub. (1) or (1g) shall submit that analysis to the department of
23 administration, to the governor, and to the chief clerks of each house of the
24 legislature, who shall distribute the analysis to the presiding officers of their
25 respective houses, to the chairpersons of the appropriate standing committees of

SENATE BILL 887**SECTION 148**

1 their respective houses, as designated by those presiding officers, and to the
2 cochairpersons of the joint committee for review of administrative rules. The agency
3 or person shall also send an electronic copy of the analysis to the legislative reference
4 bureau, in a format approved by the legislative reference bureau, for publication in
5 the register.

6 **SECTION 149.** 227.18 (3m) of the statutes is created to read:

7 227.18 (3m) If, after holding a hearing under this section, an agency makes any
8 changes to the proposed rule, the agency shall do all of the following:

9 (a) Review the statement of scope of the proposed rule prepared under s.
10 227.135 to determine whether a revised statement of scope is required under s.
11 227.135 (4).

12 (b) Review the economic impact analysis for the proposed rule prepared under
13 s. 227.137 to determine whether a revised economic impact analysis is required
14 under s. 227.137 (4).

15 **SECTION 150.** 227.185 of the statutes is amended to read:

16 **227.185 Approval by governor.** After a proposed rule is in final draft form,
17 the agency shall submit the proposed rule to the governor for approval. The governor,
18 in his or her discretion, may approve or reject the proposed rule. If the governor
19 approves a proposed rule, the governor shall provide the agency with a written notice
20 of that approval. No proposed rule may be submitted to the legislature for review
21 under s. 227.19 (2) unless the governor has approved the proposed rule in writing.
22 The agency shall notify the joint committee for review of administrative rules
23 whenever it submits a proposed rule for approval under this section. This section
24 does not apply to proposed rules prepared by the department of public instruction.

25 **SECTION 151.** 227.20 (3) (a) of the statutes is amended to read:

SENATE BILL 887**SECTION 151**

1 227.20 (3) (a) That the rule was duly promulgated by the agency.

2 **SECTION 152.** 227.20 (3) (c) of the statutes is repealed.

3 **SECTION 153.** 227.24 (1) (e) 1d. of the statutes is amended to read:

4 227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency
5 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.
6 227.135 (2), send the statement to the legislative reference bureau for publication in
7 the register as provided in s. 227.135 (3), and hold a preliminary public hearing and
8 comment period if directed under s. 227.136 (1). If the agency changes the scope of
9 a proposed emergency rule as described in s. 227.135 (4), the agency shall prepare
10 and obtain approval of a revised statement of the scope of the proposed emergency
11 rule as provided in s. 227.135 (4). No state employee or official may perform any
12 activity in connection with the drafting of a proposed emergency rule, except for an
13 activity necessary to prepare the statement of the scope of the proposed emergency
14 rule, until the governor approves the statement, if such approval is required, and the
15 individual or body with policy-making powers over the subject matter of the
16 proposed emergency rule ~~approve~~ approves the statement.

17 **SECTION 154.** 227.24 (1) (e) 1g. of the statutes is amended to read:

18 227.24 (1) (e) 1g. Submit the proposed emergency rule in final draft form to the
19 governor for approval. The governor, in his or her discretion, may approve or reject
20 the proposed emergency rule. If the governor approves a proposed emergency rule,
21 the governor shall provide the agency with a written notice of that approval. An
22 agency may not file an emergency rule with the legislative reference bureau as
23 provided in s. 227.20 and an emergency rule may not be published until the governor
24 approves the emergency rule in writing. This subdivision does not apply to proposed
25 emergency rules of the department of public instruction.

SENATE BILL 887**SECTION 155**

1 **SECTION 155.** 227.26 (2) (im) of the statutes is created to read:

2 227.26 (2) (im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the
3 committee may act to suspend a rule as provided under this subsection multiple
4 times.

5 **SECTION 156.** 227.40 (1) of the statutes is amended to read:

6 227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review
7 of the validity of a rule or guidance document shall be an action for declaratory
8 judgment as to the validity of the rule or guidance document brought in the circuit
9 court for the county where the party asserting the invalidity of the rule or guidance
10 document resides or has its principal place of business or, if that party is a
11 nonresident or does not have its principal place of business in this state, in the circuit
12 court for the county where the dispute arose. The officer or other agency whose rule
13 or guidance document is involved shall be the party defendant. The summons in the
14 action shall be served as provided in s. 801.11 (3) and by delivering a copy to that
15 officer or, if the agency is composed of more than one person, to the secretary or clerk
16 of the agency or to any member of the agency. The court shall render a declaratory
17 judgment in the action only when it appears from the complaint and the supporting
18 evidence that the rule or guidance document or its threatened application interferes
19 with or impairs, or threatens to interfere with or impair, the legal rights and
20 privileges of the plaintiff. A declaratory judgment may be rendered whether or not
21 the plaintiff has first requested the agency to pass upon the validity of the rule or
22 guidance document in question.

23 **SECTION 157.** 227.40 (2) (intro.) of the statutes is amended to read:

24 227.40 (2) (intro.) The validity of a rule or guidance document may be
25 determined in any of the following judicial proceedings when material therein:

SENATE BILL 887**SECTION 158**

1 **SECTION 158.** 227.40 (2) (e) of the statutes is amended to read:

2 227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), 106.50,
3 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or 949 for
4 review of decisions and orders of administrative agencies if the validity of the rule
5 or guidance document involved was duly challenged in the proceeding before the
6 agency in which the order or decision sought to be reviewed was made or entered.

7 **SECTION 159.** 227.40 (3) (intro.) of the statutes is renumbered 227.40 (3) (ag)
8 and amended to read:

9 227.40 (3) (ag) In any judicial proceeding other than one ~~set out above~~ under
10 sub. (1) or (2), in which the invalidity of a rule or guidance document is material to
11 the cause of action or any defense thereto, the assertion of ~~sueh~~ that invalidity shall
12 be set forth in the pleading of the party ~~so~~ maintaining the invalidity of ~~sueh~~ the rule
13 or guidance document in that proceeding. The party ~~so~~ asserting the invalidity of
14 ~~sueh~~ the rule or guidance document shall, within 30 days after the service of the
15 pleading in which the party sets forth ~~sueh~~ the invalidity, apply to the court in which
16 ~~sueh~~ the proceedings are had for an order suspending the trial of ~~said~~ the proceeding
17 until after a determination of the validity of ~~said~~ the rule or guidance document in
18 an action for declaratory judgment under sub. (1) hereof.

19 **SECTION 160.** 227.40 (3) (a) of the statutes is renumbered 227.40 (3) (ar) and
20 amended to read:

21 227.40 (3) (ar) Upon the hearing of ~~sueh~~ the application, if the court is satisfied
22 that the validity of ~~sueh~~ the rule or guidance document is material to the issues of
23 the case, an order shall be entered staying the trial of said proceeding until the
24 rendition of a final declaratory judgment in proceedings to be instituted forthwith
25 by the party asserting the invalidity of ~~sueh~~ the rule or guidance document. If the

SENATE BILL 887**SECTION 160**

1 court ~~shall find~~ finds that the asserted invalidity of a the rule or guidance document
2 is not material to the case, an order shall be entered denying the application for stay.

3 **SECTION 161.** 227.40 (3) (b) and (c) of the statutes are amended to read:

4 227.40 (3) (b) Upon the entry of a final order in said the declaratory judgment
5 action, it shall be the duty of the party who asserts the invalidity of the rule or
6 guidance document to formally advise the court of the outcome of the declaratory
7 judgment action so brought as ordered by the court. After the final disposition of the
8 declaratory judgment action the court shall be bound by and apply the judgment so
9 entered in the trial of the proceeding in which the invalidity of the rule or guidance
10 document is asserted.

11 (c) Failure to set forth the invalidity of a rule or guidance document in a
12 pleading or to commence a declaratory judgment proceeding within a reasonable
13 time pursuant to ~~such~~ the order of the court or to prosecute ~~such~~ the declaratory
14 judgment action without undue delay shall preclude ~~such~~ the party from asserting
15 or maintaining ~~such~~ that the rule or guidance document is invalid.

16 **SECTION 162.** 227.40 (4) (a) of the statutes is amended to read:

17 227.40 (4) (a) In any proceeding pursuant to this section for judicial review of
18 a rule or guidance document, the court shall declare the rule or guidance document
19 invalid if it finds that it violates constitutional provisions or exceeds the statutory
20 authority of the agency or was promulgated or adopted without compliance with
21 statutory rule-making or adoption procedures.

22 **SECTION 163.** 227.40 (6) of the statutes is amended to read:

23 227.40 (6) Upon entry of a final order in a declaratory judgment action under
24 sub. (1) with respect to a rule, the court shall send an electronic notice to the
25 legislative reference bureau of the court's determination as to the validity or

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1 invalidity of the rule, in a format approved by the legislative reference bureau, and
2 the legislative reference bureau shall publish a notice of that determination in the
3 Wisconsin administrative register under s. 35.93 (2) and insert an annotation of that
4 determination in the Wisconsin administrative code under s. 13.92 (4) (a).

5 **SECTION 164.** 227.46 (1) (h) of the statutes is amended to read:

6 227.46 (1) (h) ~~Make or recommend~~ Recommend findings of fact, conclusions of
7 law and decisions to the extent permitted by law.

8 **SECTION 165.** 227.46 (2) of the statutes is amended to read:

9 227.46 (2) Except as provided in sub. (2m) and s. 227.47 (2), in any contested
10 case which is a class 2 or class 3 proceeding, where a majority of the officials of the
11 agency who are to render the final decision are not present for the hearing, the
12 hearing examiner presiding at the hearing shall prepare a proposed decision,
13 including findings of fact, conclusions of law, order and opinion, in a form that may
14 be adopted by the agency as the final decision in the case under s. 227.47 (3). The
15 proposed decision shall be a part of the record and shall be served by the agency on
16 all parties. Each party adversely affected by the proposed decision shall be given an
17 opportunity to file objections to the proposed decision, briefly stating the reasons and
18 authorities for each objection, and to argue with respect to them before the officials
19 who are to participate in the decision. The agency may direct whether such
20 argument shall be written or oral. If an agency's decision varies in any respect from
21 the proposed decision of the hearing examiner, the agency's decision shall include an
22 explanation of the basis for each variance.

23 **SECTION 166.** 227.46 (2m) of the statutes is amended to read:

24 227.46 (2m) In any hearing or review assigned to a hearing examiner under
25 s. 227.43 (1) (bg), the hearing examiner presiding at the hearing shall prepare a

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1 proposed decision, including findings of fact, conclusions of law, order and opinion,
2 in a form that may be adopted by the agency as the final decision in the case under
3 s. 227.47 (3). The proposed decision shall be a part of the record and shall be served
4 by the division of hearings and appeals in the department of administration on all
5 parties. Each party adversely affected by the proposed decision shall be given an
6 opportunity to file objections to the proposed decision within 15 days, briefly stating
7 the reasons and authorities for each objection, and to argue with respect to them
8 before the administrator of the division of hearings and appeals. The administrator
9 of the division of hearings and appeals may direct whether such argument shall be
10 written or oral. If the decision of the administrator of the division of hearings and
11 appeals varies in any respect from the proposed decision of the hearing examiner, the
12 decision of the administrator of the division of hearings and appeals shall include an
13 explanation of the basis for each variance. The decision of the administrator of the
14 division of hearings and appeals is a final decision of the agency subject to judicial
15 review under s. 227.52. The department of transportation may petition for judicial
16 review.

17 **SECTION 167.** 227.46 (3) (a) of the statutes is repealed.

18 **SECTION 168.** 227.46 (8) of the statutes is repealed.

19 **SECTION 169.** 227.47 (1) of the statutes is amended to read:

20 227.47 (1) Except as provided in sub. (2), every proposed ~~or final~~ decision of an
21 agency ~~or a~~ hearing examiner following a hearing and every final decision of an
22 agency shall be in writing accompanied by findings of fact and conclusions of law.
23 The findings of fact shall consist of a concise and separate statement of the ultimate
24 conclusions upon each material issue of fact without recital of evidence. Every
25 proposed or final decision shall include a list of the names and addresses of all

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1 persons who appeared before the agency in the proceeding who are considered
2 parties for purposes of review under s. 227.53. The agency shall by rule establish a
3 procedure for determination of parties.

4 **SECTION 170.** 227.47 (3) of the statutes is created to read:

5 227.47 (3) Every final decision of an agency in a contested case shall be
6 approved, signed, and dated by the agency head and shall include a signed
7 certification stating as follows: "I hereby certify that this decision complies with the
8 requirements of chapter 227 of the Wisconsin Statutes and constitutes the final
9 agency action in this matter. I further certify that this decision contains no standard,
10 requirement, or threshold that is not explicitly required or explicitly permitted by
11 statute or a rule that has been lawfully promulgated and that this decision contains
12 no standard, requirement, or threshold that is more restrictive than a standard,
13 requirement, or threshold contained in the Wisconsin Statutes."

14 **SECTION 171.** 227.57 (11) of the statutes is amended to read:

15 227.57 (11) Upon review of an agency action or decision affecting a property
16 owner's use of the property owner's property, the court shall accord no deference to
17 the agency's interpretation of law if the agency action or decision restricts the
18 property owner's free use of the property owner's property.

19 **SECTION 172.** 230.08 (2) (sb) of the statutes is repealed.

20 **SECTION 173.** 238.02 (1) of the statutes is amended to read:

21 238.02 (1) There is created an authority, which is a public body corporate and
22 politic, to be known as the "Wisconsin Economic Development Corporation." The
23 members of the board shall consist of 6 members nominated by the governor, and
24 with the advice and consent of the senate appointed, to serve at the pleasure of the
25 governor; ~~3~~ 5 members appointed by the speaker of the assembly, consisting of one

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1 majority and one minority party representative to the assembly, appointed as are the
2 members of standing committees in the assembly, and one person employed in the
3 private sector, to serve at the speaker's pleasure; and ~~3~~ 4-year terms; one member
4 appointed by the minority leader of the assembly to serve a 4-year term; 5 members
5 appointed by the senate majority leader, ~~consisting of one majority and one minority~~
6 ~~party senator, appointed as are members of standing committees in the senate, and~~
7 ~~one person employed in the private sector, to serve at the majority leader's pleasure~~
8 4-year terms; and one member appointed by the minority leader of the senate to
9 serve a 4-year term. The secretary of administration and the secretary of revenue
10 shall also serve on the board as nonvoting members. The board shall elect a
11 chairperson from among its nonlegislative voting members. A vacancy on the board
12 shall be filled in the same manner as the original appointment to the board for the
13 remainder of the unexpired term, if any.

14 **SECTION 174.** 238.02 (2) of the statutes is amended to read:

15 238.02 (2) A majority of the ~~voting~~ appointed members of the board ~~currently~~
16 serving constitutes a quorum for the purpose of conducting its business and
17 exercising its powers and for all other purposes, ~~notwithstanding the existence of any~~
18 ~~vacancies.~~ Action may be taken by the board upon a vote of a majority of the ~~voting~~
19 appointed members present.

20 **SECTION 175.** 238.02 (3) of the statutes is amended to read:

21 238.02 (3) A chief executive officer shall be nominated by the ~~governor~~ board,
22 and with the advice and consent of the senate appointed, to serve at the pleasure of
23 the ~~governor~~ board. The board may delegate to the chief executive officer any powers
24 and duties the board considers proper. The chief executive officer shall receive such
25 compensation as may be determined by the board.

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1 **SECTION 176.** 238.04 (15) of the statutes is created to read:

2 238.04 (15) Appoint and supervise the economic development liaison project
3 position created in 2017 Wisconsin Act 58, section 61 (1).

4 **SECTION 177.** 238.399 (3) (a) of the statutes is amended to read:

5 238.399 (3) (a) The corporation may designate ~~not more than 30~~ any number
6 of enterprise zones in this state.

7 **SECTION 178.** 238.399 (3) (am) of the statutes is created to read:

8 238.399 (3) (am) The corporation may not designate a new enterprise zone
9 under par. (a) except as follows:

10 1. Before the corporation designates a new enterprise zone, the corporation
11 shall notify the joint committee on finance in writing of the corporation's intention
12 to designate a new enterprise zone. The notice shall describe the new zone and the
13 purposes for which the corporation proposes to designate the new zone.

14 2. If, within 14 working days after the date of the corporation's notice under
15 subd. 1., the cochairpersons of the joint committee on finance do not notify the
16 corporation that the committee has scheduled a meeting to review the corporation's
17 proposal, the corporation may designate the new enterprise zone as proposed in the
18 corporation's notice. If, within 14 working days after the date of the corporation's
19 notice under subd. 1., the cochairpersons of the committee notify the corporation that
20 the committee has scheduled a meeting to review the corporation's proposal, the
21 corporation may designate the new enterprise zone only upon approval of the
22 committee.

23 **SECTION 179.** 238.399 (3) (e) of the statutes is repealed.

24 **SECTION 180.** 281.665 (5) (d) of the statutes is amended to read:

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1 281.665 (5) (d) Notwithstanding pars. (a) to (c), during the 2017-19 and
2 2019-21 fiscal biennium bienniums, the department shall consider an applicant to
3 be eligible for a cost-sharing grant for a project under this section if the project is
4 funded or executed in whole or in part by the U.S. army corps of engineers under 33
5 USC 701s.

6 **SECTION 181.** 301.03 (16) of the statutes is created to read:

7 301.03 (16) At the request of the legislature, submit to the legislature under
8 s. 13.172 (2) a report that includes the following information and post the report on
9 the department's website:

10 (a) If, since the previous report was submitted or during a date range specified
11 in the request, an individual was pardoned for a crime or was released from a term
12 of imprisonment without completing his or her sentence, the name of the individual,
13 the pertinent crime, and the name of the person who authorized the action.

14 (b) If an individual who appears on a report submitted under this subsection
15 is convicted of a crime, the name of that individual and the crime for which he or she
16 was convicted.

17 **SECTION 182.** 343.165 (8) of the statutes is created to read:

18 343.165 (8) Notwithstanding subs. (1) to (4), for an applicant requesting that
19 an identification card be provided without charge for purposes of voting, all of the
20 following apply:

21 (a) Except as provided in par. (b), if a person is unable to provide proof of name
22 and date of birth, and the documents are unavailable to the person, the person may
23 make a written petition to the department for an exception to the requirements of
24 sub. (1) (a) or (b). The application shall include proof of identity and all of the
25 following:

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1 1. A certification of the person's name, date of birth, and current residence
2 street address on the department's form.

3 2. An explanation of the circumstances by which the person is unable to provide
4 proof of name and date of birth.

5 3. Whatever documentation is available that states the person's name and date
6 of birth.

7 (b) 1. If a person applies for and requests an identification card without charge
8 for the purposes of voting and the person's proof of name and date of birth or of proof
9 of citizenship, legal permanent resident status, conditional resident status, or legal
10 presence is unavailable, the person may make a written petition to the department
11 for an exception to the requirement for which proof is unavailable. The department
12 shall provide appropriate translation for any person who is unable to read or
13 understand the petition process instructions and related communications under this
14 subsection or s. 343.50 (1) (c) 2. The petition shall include the person's statement
15 under oath or affirmation of all of the following:

16 a. That the person is unable to provide proof of name and date of birth or proof
17 of citizenship, legal permanent resident status, conditional resident status, or legal
18 presence.

19 b. That the documents are unavailable to the person.

20 c. His or her name, date of birth, place of birth, and such other birth record
21 information requested by the department, or the person's alien or U.S. citizenship
22 and immigration service number or U.S. citizenship certificate number.

23 2. Upon receiving a petition that meets the requirements under subd. 1., the
24 department of transportation shall forward the petition to the central office of its
25 division of motor vehicles for processing. The department of transportation shall

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1 provide the person's birth record information to the department of health services,
2 for the sole purpose of verification by the department of health services of the
3 person's birth certificate information or the equivalent document from another
4 jurisdiction, other than a province of the Dominion of Canada, or to a federal agency
5 for the sole purpose of verifying the person's certificate of birth abroad issued by the
6 federal department of state, or of verifying the person's alien or U.S. citizenship and
7 immigration service number or U.S. citizenship certificate number. The department
8 of transportation shall open a file containing the petition and shall create therein a
9 report with a dated record of events, including all communication to or with the
10 applicant. The department of transportation may not complete processing of the
11 application prior to receiving verification under this subdivision, except as provided
12 in subd. 3.

13 3. If the department does not receive verification under subd. 2. within 30 days
14 or receives notice under subd. 2. that the birth information provided in the
15 application does not match that of the birth record custodian, the department shall
16 promptly notify the person in writing of that failure to verify and request the person
17 contact the department within 10 days. If the person does not respond within 10
18 days, the department shall send the person a 2nd letter with substantially similar
19 contents. If the person does not respond to the 2nd letter within 10 days and the
20 department knows the person's telephone number, the department shall call the
21 person on the telephone and notify the person that the birth information was not
22 verified and request the person provide additional information within 10 days. If 30
23 days have elapsed since the date of the first letter sent under this subdivision without
24 contact from the person, the department shall suspend the investigation and send
25 written notice that the person has not responded, that the department has no further

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1 leads for it to locate or obtain secondary documentation or verification of birth
2 information, that the department has suspended its investigation or research until
3 such time as the person contacts the department, and that if within 180 days after
4 the date of the written notice the person fails to contact the department the petition
5 will be denied and no further identification card receipts will be issued under s.
6 343.50 (1) (c) 2. If the person fails to contact the department within 180 days after
7 the department suspends the investigation, the department shall deny the petition
8 in writing and shall inform the person that the department will resume the
9 investigation if the person contacts the department to discuss the petition.
10 Whenever the applicant contacts the department to discuss the petition, the
11 investigation under this subdivision shall begin anew, notwithstanding any prior
12 denial due to the person's failure to timely respond. The applicant shall act in good
13 faith and use reasonable efforts to provide additional information that could
14 reasonably lead the department to discover correct birth information or secondary
15 documentation as described in subd. 3g., to assist the department in processing the
16 application. The department shall investigate the petition and any additional
17 information provided under this subdivision with prompt and due diligence and shall
18 use reasonable efforts to locate and obtain the secondary documentation by pursuing
19 leads provided by the person. Investigations may only be completed within the
20 division of motor vehicles' central office by employees whose regular job duties
21 include investigation and fraud detection and prevention. If the investigation
22 discovers new or corrected birth information, the department of transportation shall
23 resubmit the new or corrected birth information to the department of health services
24 for verification under subd. 2. The department of transportation shall pay any

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1 actual, necessary fees required by the record custodian to obtain the secondary
2 documentation.

3 3g. If the department of health services does not verify the birth record
4 information within 30 days, the department of transportation may issue an
5 identification card to the person only if the department of transportation receives
6 verification under subd. 2., if the person provides proof of name and date of birth or
7 proof of citizenship, legal permanent resident status, conditional resident status or
8 legal presence, or if the department of transportation receives other secondary
9 documentation acceptable to the department of transportation and deemed
10 sufficient under subd. 3., which may include the following:

- 11 a. Baptismal certificate.
- 12 b. Hospital birth certificate.
- 13 c. Delayed birth certificate.
- 14 d. Census record.
- 15 e. Early school record.
- 16 f. Family Bible record.
- 17 g. Doctor's record of post-natal care.
- 18 h. Other documentation deemed acceptable to the department of
19 transportation, within the department's reasonable discretion.

20 4. In this paragraph, "proof of citizenship, legal permanent resident status,
21 conditional resident status or legal presence" means any of the following:

- 22 a. A U.S. state or local government issued certificate of birth.
- 23 b. Valid U.S. passport.
- 24 c. Valid foreign passport with appropriate immigration documents, which shall
25 include or be accompanied by federal form I-94, arrival and departure record.

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- 1 d. Certificate of U.S. citizenship.
- 2 e. A U.S. Certificate of naturalization.
- 3 f. Valid department of homeland security/U.S. citizenship and immigration
4 services federal form I-551, resident alien registration receipt card, issued since
5 1997.
- 6 g. Valid department of homeland security/U.S. citizenship and immigration
7 services federal form I-688, temporary resident identification card.
- 8 h. Valid department of homeland security/U.S. citizenship and immigration
9 services federal form I-688B or I-766, employment authorization document.
- 10 i. Valid department of homeland security/U.S. citizenship and immigration
11 services federal form I-571, refugee travel document.
- 12 j. Department of homeland security/U.S. citizenship and immigration services
13 federal form I-797, notice of action.
- 14 k. Department of homeland security/transportation security administration
15 transportation worker identification credential.
- 16 L. A U.S. department of state reception and placement program assurance
17 form (refugee version), which shall include or be accompanied by federal form I-94,
18 arrival and departure record.
- 19 m. Documentary proof specified in s. 343.14 (2) (es), that is approved by the
20 appropriate federal authority.
- 21 5. In this paragraph, “proof of identity” means a supporting document
22 identifying the person by name and bearing the person’s signature, a reproduction
23 of the person’s signature, or a photograph of the person. Acceptable supporting
24 documents include:

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1 a. A valid operator's license, including a license from another jurisdiction,
2 except a province of the Dominion of Canada, bearing a photograph of the person.

3 b. Military discharge papers.

4 c. A U.S. government and military dependent identification card.

5 d. A valid photo identification card issued by Wisconsin or another jurisdiction,
6 except a province of the Dominion of Canada, bearing a photograph of the person.

7 e. A marriage certificate or certified copy of judgment of divorce.

8 f. A social security card issued by the social security administration.

9 g. Any document described under subd. 6., if it bears a photograph of the person
10 and was not used as proof of name and date of birth.

11 h. Department of homeland security/transportation security administration
12 transportation worker identification credential.

13 6. In this paragraph, "proof of name and date of birth" means any of the
14 following:

15 a. For a person born in Wisconsin, a copy of the person's Wisconsin birth
16 certificate issued and certified in accordance with s. 69.21.

17 b. For a person born in another jurisdiction, other than a province of the
18 Dominion of Canada, a certified copy of his or her birth certificate or the equivalent
19 document from that other jurisdiction or a certificate of birth abroad issued by the
20 federal department of state.

21 c. A U.S. passport.

22 d. A valid, unexpired passport issued by a foreign country with federal I-551
23 resident alien registration receipt card or federal I-94 arrival and departure record
24 that bears a photograph of the person and identifies the person's first and last names,
25 and the person's day, month, and year of birth.

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- 1 e. A Wisconsin operator's license bearing a photograph of the person.
- 2 f. A Wisconsin identification card issued under s. 343.50, bearing a photograph
3 of the person, other than an identification card issued under s. 343.50 (1) (c) 2.
- 4 g. A federal I-551 "permanent resident alien registration receipt card."
- 5 h. A federal I-94 "parole edition" or "refugees version" arrival-departure
6 record, together with a certification, on the department's form, by the person, of the
7 person's name and date of birth, a copy of a federal department of state refugee data
8 center reception and placement program assurance form and a letter from the
9 person's sponsoring agency on its letterhead, supporting the person's application for
10 a Wisconsin identification card or operator's license and confirming the person's
11 identification. Applicants who are unable to provide a reception and placement
12 program assurance form may be issued a Wisconsin identification card or operator's
13 license, but only after their identification has been confirmed by the U.S. citizenship
14 and immigration services.
- 15 i. A U.S. certificate of naturalization.
- 16 j. A certificate of U.S. citizenship.
- 17 k. A federal temporary resident card or employment authorization card, I-688,
18 I-688A, I-688B, and I-766.
- 19 L. A Native American identification card that is issued by a federally
20 recognized tribe or a band of a federally recognized tribe, is issued in Wisconsin,
21 includes a photograph and signature or reproduction of a signature of the person, and
22 has been approved by the secretary for use as identification.
- 23 m. A court order under seal related to the adoption or divorce of the individual
24 or to a name or gender change that includes the person's current full legal name, date
25 of birth, and, in the case of a name change or divorce order, the person's prior name.

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1 n. An armed forces of the U.S. common access card or DD Form 2 identification
2 card issued to military personnel.

3 o. Department of homeland security/transportation security administration
4 transportation worker identification credential.

5 7. In this paragraph, “unavailable” means that the applicant does not have the
6 document and would be required to pay a government agency to obtain it.

7 (c) The administrator may delegate to the deputy administrator or to a bureau
8 director, as described in s. 15.02 (3) (c) 2., whose regular responsibilities include
9 driver licensing and identification card issuance, the authority to accept or reject
10 such extraordinary proof of name, date of birth, or U.S. citizenship under this
11 subsection.

12 (e) The denial of a petition under par. (b) is subject to judicial review in the
13 manner provided in ch. 227 for the review of administrative decisions.

14 (f) If the administrator, or delegate described in par. (c), determines that an
15 applicant has knowingly made a false statement or knowingly concealed a material
16 fact or otherwise committed a fraud in an application, petition, or additional
17 information, the department shall immediately suspend the investigation, shall
18 notify the person in writing of the suspension and the reason for the suspension, and
19 refer any suspected fraud to law enforcement.

20 (g) A person whose petition is suspended or denied due to a failure to respond
21 timely may revive the petition at any time by contacting the department to discuss
22 the petition application. If a person revives a petition, the department shall
23 immediately issue, and shall continue to reissue, an identification card receipt to the
24 person as provided in s. 343.50 (1) (c) 2., except that the department shall first
25 require the person to take a photograph if required under s. 343.50 (1) (c) 2.

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1 (h) The department shall grant a petition if the department concludes, on the
2 basis of secondary documentation or other corroborating information, that it is more
3 likely than not that the name, date of birth, and U.S. citizenship provided in the
4 application is correct.

5 **SECTION 183.** 343.50 (1) (c) of the statutes is renumbered 343.50 (1) (c) 1. and
6 amended to read:

7 343.50 (1) (c) 1. The department may issue a receipt to any applicant for an
8 identification card, and shall issue a receipt to an applicant requesting an
9 identification card under sub. (5) (a) 3., which receipt shall constitute a temporary
10 identification card while the application is being processed and shall be valid for a
11 period not to exceed 60 days. If the application for an identification card is processed
12 under the exception specified in s. 343.165 (7) or (8), the receipt shall include the
13 marking specified in sub. (3) (b).

14 **SECTION 184.** 343.50 (1) (c) 2. of the statutes is created to read:

15 343.50 (1) (c) 2. If the department issues a receipt to an applicant petitioning
16 the department under s. 343.165 (8), all of the following apply:

17 a. The department shall issue the receipt not later than the 6th working day
18 after the person made the petition and shall deliver the receipt by 1st class mail,
19 except that if a petition is filed or revived within 7 days before or 2 days after a
20 statewide election the department shall issue a receipt not later than 24 hours after
21 the petition is filed or revived and shall deliver the receipt by overnight or next-day
22 mail. The department shall issue a new receipt to the person not later than 10 days
23 before the expiration date of the prior receipt, and having a date of issuance that is
24 the same as the expiration date of the prior receipt. The department shall issue no
25 receipt to a person after the denial of a petition under s. 343.165 (8), unless the person

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1 revives an investigation. The department shall continue to reissue identification
2 card receipts to a person unless the department cancels the identification card
3 receipt upon the circumstances specified in sub. (10), upon the issuance of an
4 operator's license or identification card to the person, upon the person's request,
5 upon the denial of the application, upon return to the department of a receipt as
6 nondeliverable, upon the person's failure to contact the department to discuss the
7 petition for a period of 180 days or more, or whenever the department receives
8 information that prohibits issuance of an identification card under sub. (1) (c). The
9 department shall require the person to take a photograph prior to reissuing an
10 identification card receipt if the photograph of the person on file with the department
11 is 8 or more years old.

12 b. An identification card receipt issued under this subdivision shall constitute
13 a temporary identification card while the application is being processed under s.
14 343.165 (8) and shall be valid for a period not to exceed the period specified in sub.
15 (1) (c). The department shall clearly mark the receipt "FOR VOTING PURPOSES
16 ONLY" as validated for use for voting as provided in ss. 5.02 (6m) (d) and 6.79 (2) (a).
17 A receipt issued under this subsection shall contain the information specified under
18 s. 343.17 (3), including the date of issuance, the expiration date, the name and
19 signature of the person to whom it was issued, and, except as authorized in sub. (4g),
20 a photograph of the individual to whom it was issued, and may contain such further
21 information as the department deems necessary.

22 c. The department shall issue a replacement identification card receipt under
23 subd 1. a. upon request of the person to whom it is issued if the receipt is lost or
24 destroyed.

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1 d. Notwithstanding subd. 2. a., the department shall cancel or refuse to issue
2 an identification card receipt under this subsection upon the circumstances specified
3 in sub. (10), upon the issuance of an operator's license or identification card to the
4 person, upon the person's request, upon the denial of the application, upon return to
5 the department of a receipt as nondeliverable, or whenever the department receives
6 information that prohibits issuance of an identification card under subd. 1.

7 e. Whenever any person, after receiving an identification card receipt under
8 this subdivision, moves from the address named in the application or in the receipt
9 issued to him or her or is notified by the local authorities or by the postal authorities
10 that the address so named has been changed, the person shall, within 30 days, notify
11 the department of his or her change of address. Upon receiving a notice of change of
12 address, the department shall promptly issue a new receipt under subd. 2. a. showing
13 the correct address and having the expiration date of the prior receipt.

14 **SECTION 185.** 343.50 (3) (b) of the statutes is amended to read:

15 343.50 (3) (b) If an identification card is issued based upon the exception
16 specified in s. 343.165 (7) or (8), the card shall, in addition to any other required
17 legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a
18 marking similar or identical to the marking described in s. 343.03 (3r).

19 **SECTION 186.** 343.50 (3) (c) of the statutes is created to read:

20 343.50 (3) (c) 1. Notwithstanding par. (a), the department may issue an
21 identification card bearing a name other than the name that appears on a supporting
22 document if the person provides evidence acceptable to the department that the
23 person has used the name in a manner that qualifies the name as being legally
24 changed under the common law of Wisconsin, including evidence of the person's prior
25 name, changed name, the length of time the person has consistently and

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1 continuously used the changed name, an affirmation that the person no longer uses
2 the prior name, and an affirmation that the person did not change his or her name
3 for a dishonest or fraudulent purpose or to the injury of any other person. The
4 department shall mark an identification card issued under this subdivision in the
5 manner described in s. 343.03 (3r).

6 2. Notwithstanding par. (a), the department shall approve a name change
7 requested by a person who cannot provide supporting documentation of a lawful
8 change of name but who does one of the following:

9 a. Provides proof of identity in the new name, and the department receives from
10 the federal social security administration evidence or confirmation of the name
11 change.

12 b. Applies for an identification card and provides an affidavit declaring all facts
13 required under subd. 1. to prove a name change under the common law of Wisconsin.

14 **SECTION 187.** 601.83 (1) (a) of the statutes, as created by 2017 Wisconsin Act
15 138, is amended to read:

16 601.83 (1) (a) ~~Subject to par. (b), the~~ The commissioner shall administer a
17 state-based reinsurance program known as the healthcare stability plan in
18 accordance with the specific terms and conditions approved by the federal
19 department of health and human services dated July 29, 2018. Before December 31,
20 2023, the commissioner may not request from the federal department of health and
21 human services a modification, suspension, withdrawal, or termination of the waiver
22 under 42 USC 18052 under which the healthcare stability plan under this
23 subchapter operates unless legislation has been enacted specifically directing the
24 modification, suspension, withdrawal, or termination. Before December 31, 2023,
25 the commissioner may request renewal, without substantive change, of the waiver

SENATE BILL 887**SECTION 187**

1 under 42 USC 18052 under which the health care stability plan operates in
2 accordance with s. 20.940 (4) unless legislation has been enacted that is contrary to
3 such a renewal request. The commissioner shall comply with applicable timing in
4 and requirements of s. 20.940.

5 **SECTION 188.** 601.83 (1) (b) of the statutes, as created by 2017 Wisconsin Act
6 138, is repealed.

7 **SECTION 189.** 601.83 (1) (g) of the statutes, as created by 2017 Wisconsin Act
8 138, is amended to read:

9 601.83 (1) (g) The commissioner may promulgate any rules necessary to
10 implement the healthcare stability plan under this section, except that any rules
11 promulgated under this paragraph shall seek to maximize federal funding for the
12 healthcare stability plan and shall comply with this section and with the approval
13 by the federal department of health and human services dated July 29, 2018. The
14 commissioner may promulgate rules necessary to implement this section as
15 emergency rules under s. 227.24. Notwithstanding s. 227.24 (1) (a) and (3), the
16 commissioner is not required to provide evidence that promulgating a rule under this
17 paragraph as an emergency rule is necessary for the preservation of the public peace,
18 health, safety, or welfare and is not required to provide a finding of emergency for a
19 rule promulgated under this paragraph. An emergency rule promulgated by the
20 commissioner under this paragraph before January 1, 2019, remains in effect until
21 it is superseded by a subsequent permanent rule.

22 **SECTION 190.** 601.83 (1) (h) of the statutes, as created by 2017 Wisconsin Act
23 138, is amended to read:

24 601.83 (1) (h) In 2019 and in each subsequent year, the commissioner may
25 expend no more than \$200,000,000 from all revenue sources for the healthcare

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1 stability plan under this section, unless the joint committee on finance under s. 13.10
2 has increased this amount upon request by the commissioner. The commissioner
3 shall ensure that sufficient funds are available for the healthcare stability plan
4 under this section to operate as described in the approval of the federal department
5 of health and human services dated July 29, 2018.

6 **SECTION 191.** 601.83 (1) (i) of the statutes is created to read:

7 601.83 (1) (i) The commissioner shall complete and submit any reports, provide
8 any information, and participate in any oversight activities required by the federal
9 department of health and human services to implement and maintain the healthcare
10 stability plan under this subchapter.

11 **SECTION 192.** 601.85 (4) of the statutes, as created by 2017 Wisconsin Act 138,
12 is repealed.

13 **SECTION 193.** 801.50 (3) (b) of the statutes is amended to read:

14 801.50 (3) (b) All actions relating to the validity or invalidity of a rule or
15 guidance document shall be venued as provided in s. 227.40 (1).

16 **SECTION 194.** 803.09 (2m) of the statutes is created to read:

17 803.09 (2m) When a party to an action challenges in state or federal court the
18 constitutionality of a statute, facially or as applied, or challenges a statute as
19 violating or preempted by federal law, as part of a claim or affirmative defense, the
20 assembly, the senate, and the state legislature may intervene at any time in the
21 action as a matter of right by serving a motion upon the parties as provided in s.
22 801.14.

23 **SECTION 195.** 806.04 (11) of the statutes is amended to read:

24 806.04 (11) PARTIES. When declaratory relief is sought, all persons shall be
25 made parties who have or claim any interest which would be affected by the

SENATE BILL 887**SECTION 195**

1 declaration, and no declaration may prejudice the right of persons not parties to the
2 proceeding. In any proceeding which involves the validity of a municipal ordinance
3 or franchise, the municipality shall be made a party, and shall be entitled to be heard.
4 If a statute, ordinance or franchise is alleged to be unconstitutional, or to be in
5 violation of or preempted by federal law, the attorney general shall also be served
6 with a copy of the proceeding and, except as provided under this subsection, be
7 entitled to be heard. If a statute is alleged to be unconstitutional, or to be in violation
8 of or preempted by federal law, the speaker of the assembly, the president of the
9 senate, and the senate majority leader shall also be served with a copy of the
10 proceeding, and the assembly, the senate, and the state legislature are entitled to be
11 heard. If the assembly, the senate, or the joint committee on legislative organization
12 intervenes as provided under s. 803.09 (2m), the assembly shall represent the
13 assembly, the senate shall represent the senate, and the joint committee on
14 legislative organization shall represent the state. In an action involving the
15 constitutionality of a statute, or challenging a statute as violating or preempted by
16 federal law, if the joint committee on legislative organization determines at any time
17 that the interests of the state will be best represented by special counsel appointed
18 by the legislature, it shall appoint special counsel to represent state defendants and
19 act instead of the attorney general and the attorney general may not participate in
20 the action. Special counsel appointed under this subsection shall have the powers
21 of the attorney general with respect to the litigation to which special counsel has been
22 appointed. In any proceeding under this section in which the constitutionality,
23 construction or application of any provision of ch. 227, or of any statute allowing a
24 legislative committee to suspend, or to delay or prevent the adoption of, a rule as
25 defined in s. 227.01 (13) is placed in issue by the parties, the joint committee for

SENATE BILL 887**SECTION 195**

1 review of administrative rules shall be served with a copy of the petition and, with
2 the approval of the joint committee on legislative organization, shall be made a party
3 and be entitled to be heard. ~~In any proceeding under this section in which the~~
4 ~~constitutionality, construction or application of any provision of ch. 13, 20, 111, 227~~
5 ~~or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or of any statute allowing a~~
6 ~~legislative committee to suspend, or to delay or prevent the adoption of, a rule as~~
7 ~~defined in s. 227.01 (13) is placed in issue by the parties, the joint committee on~~
8 ~~legislative organization shall be served with a copy of the petition and the joint~~
9 ~~committee on legislative organization, the senate committee on organization or the~~
10 ~~assembly committee on organization may intervene as a party to the proceedings and~~
11 ~~be heard.~~

12 **SECTION 196.** 809.13 of the statutes is amended to read:

13 **809.13 Rule (Intervention).** A person who is not a party to an appeal may
14 file in the court of appeals a petition to intervene in the appeal. A party may file a
15 response to the petition within 11 days after service of the petition. The court may
16 grant the petition upon a showing that the petitioner's interest meets the
17 requirements of s. 803.09 (1) ~~or, (2), or (2m).~~

18 **SECTION 197.** Subchapter VIII (title) of chapter 893 [precedes 893.80] of the
19 statutes is amended to read:

CHAPTER 893**SUBCHAPTER VIII****CLAIMS AGAINST GOVERNMENTAL****BODIES, OFFICERS AND EMPLOYEES;****ACTIONS ALLEGING A STATUTE IS**

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1 (b) The requirement for current recipients of Medical Assistance under s. 49.45
2 (23) to complete a health risk assessment applies no sooner than October 31, 2019.

3 (2) IMPLEMENTATION OF CHILDLESS ADULT DEMONSTRATION PROJECT.

4 (a) The department of health services shall implement the childless adults
5 demonstration project reforms in accordance with s. 49.45 (23b) by no later than
6 November 1, 2019. If the department of health services is unable to fully implement
7 the project reforms by November 1, 2019, the department may request from the joint
8 committee on finance an extension not to exceed 90 days in a written submission that
9 includes a report on the progress toward implementation of the project and the
10 reason an extension is needed. If the cochairpersons of the joint committee on finance
11 do not notify the department of health services within 14 working days after the date
12 of the request for an extension under this paragraph that the committee has
13 scheduled a meeting for the purpose of reviewing the extension request, the
14 extension is considered granted. If, within 14 working days after the date of the
15 request for an extension under this paragraph, the cochairpersons of the committee
16 notify the department of health services that the committee has scheduled a meeting
17 for the purpose of reviewing the extension request, the department may consider the
18 extension granted only upon approval by the committee. The department of health
19 services may request additional extensions under the procedure under this
20 paragraph.

21 (b) If the joint committee on finance determines that the department of health
22 services has not complied with the deadline under par. (a), has not made sufficient
23 progress in implementing s. 49.45 (23b), or has not complied with s. 20.940 (3) (c) in
24 relation to the implementation of s. 49.45 (23b), the joint committee on finance may
25 reduce from moneys allocated for state operations or administrative functions the

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1 department of health services's appropriation or expenditure authority, whichever
2 is applicable, or change the authorized level of full-time equivalent positions for the
3 department of health services related to the Medical Assistance program. The
4 procedures under s. 13.10 do not apply to this paragraph.

5 (3) WISCONSIN HEALTHCARE STABILITY PLAN 2019 PAYMENT PARAMETERS.
6 Notwithstanding 2017 Wisconsin Act 138, SECTION 11 (1), for the 2019 benefit year,
7 the commissioner of insurance shall set as payment parameters for the healthcare
8 stability plan under subch. VII of ch. 601 an attachment point of \$50,000, a
9 coinsurance rate of 50 percent, and a reinsurance cap of \$250,000. The commissioner
10 of insurance may not adjust the payment parameters for the 2019 benefit year.

11 (4) DRUG TESTING AND TREATMENT IMPLEMENTATION DEADLINE. The department
12 of health services shall implement the substance abuse screening, testing, and
13 treatment under s. 49.791 by no later than October 1, 2019, and before
14 implementation shall comply with s. 20.940 (3) (c) as if the screening, testing, and
15 treatment under s. 49.791 is a request approved on the effective date of this
16 subsection.

17 (5) REQUESTS FOR APPROPRIATION TRANSFERS. During the 2018-19 fiscal year, the
18 department of workforce development may submit to the joint committee on finance
19 one or more requests to transfer moneys from the appropriation account under s.
20 20.445 (1) (b) to the appropriation accounts under s. 20.445 (1) (dg) and (e) for the
21 purpose of funding the grant programs under ss. 106.13 (3m) and 106.272. If the
22 committee approves a request in whole or in part, the committee may transfer
23 moneys without making any of the findings required under s. 13.101 (4).

24 (6) INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE
25 ORGANIZATION. The assembly, senate, and joint committee on legislative organization

SENATE BILL 887**SECTION 200**

1 may intervene as permitted under s. 803.09 (2m) in any litigation pending in state
2 or federal court on the effective date of this subsection. If the joint committee on
3 legislative organization intervenes and appoints special counsel to represent state
4 defendants as set forth under s. 806.04 (11) or 893.825, the attorney general shall
5 notify the court of the substitution of counsel by special counsel appointed by the joint
6 committee on legislative organization to represent the state defendants and may not
7 participate in the action.

8 (7) WEDC; STAGGERING OF INITIAL TERMS. Notwithstanding the length of terms
9 specified for the members of the board of directors of the Wisconsin Economic
10 Development Corporation under s. 238.02 (1), the initial members appointed by the
11 speaker and minority leader of the assembly and the majority leader and minority
12 leader of the senate beginning on the effective date of this subsection shall be
13 appointed for terms expiring as follows:

14 (a) The terms of 2 members appointed by the speaker of the assembly and 2
15 members appointed by the senate majority leader shall expire on October 1, 2020.

16 (b) The terms of 2 members appointed by the speaker of the assembly, the
17 member appointed by the assembly minority leader, 2 members appointed by the
18 senate majority leader, and the member appointed by the senate minority leader,
19 shall expire on October 1, 2022.

20 (c) The terms of one member appointed by the speaker of the assembly and one
21 member appointed by the senate majority leader shall expire on October 1, 2024.

22 (8) WEDC; CURRENT BOARD MEMBERS. The members of the board of directors of
23 the Wisconsin Economic Development Corporation serving at the pleasure of the
24 speaker of the assembly and senate majority leader on the day before the effective
25 date of this subsection shall continue to serve at pleasure pending the appointment

SENATE BILL 887**SECTION 200**

1 of members under sub. (7), but may not serve after January 6, 2019, unless appointed
2 under sub. (7).

3 (9) INDIVIDUAL INCOME TAX RATES. The secretary of administration shall exclude
4 from the calculation under s. 16.518 (2) all additional revenue deposited in the
5 general fund in the 2018-19 fiscal year that is attributable to an increase in the sales
6 and use taxes reported under s. 73.03 (71), as determined by the secretary of
7 administration in consultation with the department of revenue.

8 **SECTION 201. Fiscal changes.**

9 (1) SETTLEMENT FUNDS. Notwithstanding s. 20.001 (3) (c), from the
10 appropriation account under s. 20.455 (3) (g), on the effective date of this subsection,
11 there is lapsed to the general fund the unencumbered balance of any settlement
12 funds in that appropriation account, as determined by the attorney general.

13 (2) OFFICE OF SOLICITOR GENERAL POSITIONS. In the schedule under s. 20.005 (3)
14 for the appropriation to the department of justice under s. 20.455 (1) (gh), the dollar
15 amount for fiscal year 2018-19 is decreased by \$320,000 to decrease the authorized
16 FTE positions for the department by 1.0 PR solicitor general position and 3.0 PR
17 deputy solicitor general positions on January 1, 2019.

18 (3) WORKFORCE DEVELOPMENT; WORKFORCE TRAINING APPROPRIATION DECREASE. In
19 the schedule under s. 20.005 (3) for the appropriation to the department of workforce
20 development under s. 20.445 (1) (b), the dollar amount for fiscal year 2018-19 is
21 decreased by \$7,345,900.

22 (4) DEPARTMENT OF JUSTICE GIFTS AND GRANTS. Notwithstanding s. 20.001 (2) (b),
23 any moneys encumbered under the appropriation accounts under s. 20.455 (2) (gb)
24 and (3) (g) before the effective date of this subsection may be expended pursuant to
25 the terms of the encumbrance.

SENATE BILL 887**SECTION 202****1 SECTION 202. Initial applicability.**

2 (1) AGENCY PUBLICATIONS. The treatment of s. 227.05 with respect to printed
3 publications first applies to guidance documents, forms, pamphlets, or other
4 informational materials that are printed 60 days after the effective date of this
5 subsection.

6 (2) GROUP INSURANCE BOARD. The treatment of s. 15.07 (1) (b) 24. first applies
7 to a member of the group insurance board who is appointed by the governor on the
8 effective date of this subsection.

9 (3) GUBERNATORIAL APPROVALS OF PROPOSED RULES. The treatment of ss. 227.135
10 (3), 227.185, and 227.24 (1) (e) 1d. and 1g., the renumbering and amendment of s.
11 227.135 (2), and the creation of s. 227.135 (2) (a) 2. first apply to a proposed rule or
12 emergency rule whose statement of scope is submitted to the legislative reference
13 bureau for publication under s. 227.135 (3) on the effective date of this subsection.

14 (4) FINAL DECISIONS IN CONTESTED CASES. The treatment of ss. 227.46 (1) (h), (2),
15 (2m), (3) (a) and (8) and 227.47 (1) and (3) first applies to requests for hearings made
16 on the effective date of this subsection.

17 (5) PASS-THROUGH ENTITIES. The treatment of ss. 71.05 (6) (a) 14. and (10) (dm),
18 71.07 (7) (c), 71.21 (6), 71.36 (1), 71.365 (4m), and 71.775 (3) (a) 4., the renumbering
19 and amendment of ss. 71.07 (7) (b) and 71.365 (1), and the creation of ss. 71.07 (7)
20 (b) 3. and 71.365 (1) (b) first apply to taxable years beginning on January 1, 2019,
21 except that the treatment of ss. 71.05 (6) (a) 14. and (10) (dm), 71.07 (7) (c), 71.21 (6),
22 71.36 (1), 71.365 (4m), and 71.775 (3) (a) 4., the renumbering and amendment of ss.
23 71.07 (7) (b) and 71.365 (1), and the creation of ss. 71.07 (7) (b) 3. and 71.365 (1) (b)
24 first apply to taxable years beginning on January 1, 2018, for tax-option
25 corporations.

SENATE BILL 887**SECTION 202**

1 (6) REQUIREMENTS FOR HIGHWAY PROJECTS. The treatment of ss. 84.54 and 86.51
2 first applies to projects let and aid disbursed on the effective date of this subsection.

3 **SECTION 203. Effective dates.** This act takes effect on the day after
4 publication, except as follows:

5 (1) HIGHWAY FUNDING TRANSFERS. The treatment of s. 20.395 (2) (fq) and SECTION
6 199 of this act take effect on July 1, 2019.

7 (2) REQUIREMENTS FOR HIGHWAY PROJECTS. The treatment of ss. 84.54 and 86.51
8 and SECTION 202 (6) of this act take effect on July 1, 2019.

9 (3) AGENCY PUBLICATIONS. The treatment of s. 227.05 and SECTION 202 (1) takes
10 effect on the first day of the 7th month beginning after publication.

11 (4) WISCONSIN HEALTHCARE STABILITY PLAN. The treatment of s. 601.85 (4) takes
12 effect on December 31, 2018.

13

(END)