



## Legislative Fiscal Bureau

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November 19, 2020

TO: Members  
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Summary of Provisions of LRB-6522/1

On November 16, the Governor announced that he had prepared a bill (LRB-6522/1) relating to a state government response to the COVID-19 pandemic. Among other things, the bill would increase GPR appropriations for 2020-21 by \$541 million.

Attached is a document, prepared by this office, which summarizes the provisions of the Governor's bill.

BL/lb  
Attachment

# Summary of Provisions

## LRB-6522/1

### ADMINISTRATION

#### 1. COVID-19 TESTING AND SURGE CAPACITY

GPR	\$403,000,000
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Create an annual GPR appropriation and provide \$403 million in 2020-21. Require the Department of Administration (DOA) to: (a) facilitate COVID-19 testing and diagnosis throughout the state; (b) operate alternate care facilities staffed by health care professionals for patients diagnosed with COVID-19; and (c) facilitate surge staffing resources for health care facilities throughout the state. The Department would allocate \$255 million to procure testing supplies and lab diagnostics, \$105 million to support hospital system surge capacity and operate alternate care facilities, and \$43 million to administer testing sites.

Currently, in coordination with the Department of Health Services and the Department of Military Affairs, DOA supports the operation of community testing sites, distribution of testing and lab supplies, and coordination of hospital system surge capacity resources, with operations supported by the federal Coronavirus Relief Fund, which expires on December 30, 2020.

[Bill Sections: 1 (as it relates to s. 20.505(1)(bk)), 3, and 49(3)]

#### 2. LIMITED-TERM EMPLOYEE HOURS

Specify that the Director of the Bureau of Merit Recruitment and Selection in DOA's Division of Personnel Management may increase or suspend the number of hours for a limited-term appointment for the period beginning March 12, 2020, and ending December 31, 2021. The bill would extend the effective period of an identical provision included in 2019 Act 185, which expired May 10, 2020. Under current law, a limited-term appointment is a provisional appointment for less than 1,040 hours per year.

[Bill Section: 37]

#### 3. USE OF ANNUAL LEAVE

Specify that a state employee may take annual leave within the first six months of the employee's probationary period upon initial appointment during the period beginning March 12, 2020, and ending December 31, 2021. Further, specify that if such an employee who has taken annual leave terminates his or her employment before earning annual leave equivalent to the amount of annual leave the employee has taken, the appointing authority would be required to deduct the cost

of the unearned annual leave from the employee's final pay. The bill would extend the effective period of an identical provision included in 2019 Act 185, which expired May 10, 2020.

Under current law, an employee, with the approval of his or her appointing authority, may anticipate the annual leave which he or she could earn during the current calendar year, but no employee is eligible to take annual leave until he or she has completed the first six months of a probationary period for an original job appointment unless the employee uses annual leave that he or she accrued while serving in an unclassified position.

[Bill Section: 38]

## **EMPLOYEE TRUST FUNDS**

### **1. REHIRED ANNUITANTS IN CRITICAL POSITIONS**

Specify that a Wisconsin Retirement System (WRS) participant who is hired by a participating employer during the period beginning with the day after publication of the bill and ending December 31, 2021, may elect to not suspend his or her annuity for the duration of the period if: (a) at the time of terminating employment, the participant does not have an agreement with any participating employer to return to employment or enter into a contract to provide employee services; and (b) the position for which the annuitant is hired is a critical position. Further, specify that the current break-in-service requirement of 75 days would not apply to a participant who is hired for a critical position during the period if at least 15 days have elapsed between the termination of employment and becoming a participating employee. Require the head of each state agency and each local health department, based on guidance provided by the Secretary of the Department of Health Services, to determine which positions within the respective state agency or local government are critical, for the purposes of administering the provisions applicable to rehired annuitants. Further, specify that the provisions relating to rehired annuitants would first apply to participants who terminate employment on the effective date of the bill. The bill would create a provision nearly identical to a provision included in 2019 Act 185, which expired May 10, 2020. The provisions would only differ with respect to: (a) the effective period; and (b) the initial applicability. The Act 185 provision applied to all annuitants, whereas the bill provision would apply only to participants who terminate employment on or after the effective date of the bill.

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

to retain the lump sum payment.

[Bill Sections: 5 thru 12, 33, and 50(1)]

## **FINANCIAL INSTITUTIONS**

### **1. NOTARIZATION POLICY FOR ESTATE PLANNING DOCUMENTS**

Authorize notary publics to perform communication technology notarization of estate planning documents (including wills, codicils, testamentary trusts, living trusts, or trust amendments for personal use) through December 31, 2021.

Under current law, a person seeking a notarization is generally required to physically appear before a notary public. Under 2019 Act 125, a notary public can use technology to notarize documents for persons under certain situations, but does not extend to estate planning documents.

[Bill Sections: 29 and 30]

## **GENERAL PROVISIONS**

### **1. IN PERSON APPEARANCE WAIVER**

Modify current law to specify that during the period beginning on the effective date of the bill and ending on December 31, 2021, the head or governing body of a state entity may waive a statutory or other requirement imposed, administered, or enforced by the state entity that an individual appear in person if the head or governing body finds that enforcing the requirement may increase the public health risk.

As under current law, the definition of a "state entity" would continue to mean any state agency, institution of higher education, association, society, or other body in state government, created or authorized to be created by the Constitution or any law that is entitled to expend moneys appropriated by law, including the Legislature, the Courts, and any authority.

Under 2019 Act 185, the head or governing body of a state entity may waive a requirement imposed, administered, or enforced by the state entity that an individual appear in person during the public health emergency declared on March 12, 2020, by Executive Order 72 if the head or governing body finds that the waiver assists in the state's response to the public health emergency or that

enforcing the requirement may increase the public health risk.

The bill modifies the Act 185 provision such that: (a) the applicable time period for the in person appearance waiver would be from the date of enactment of the bill to December 31, 2021; (b) a "statutory or other requirement" may be waived rather than simply a "requirement"; and (c) the previous condition relating to the public health emergency is removed (that a waiver may be granted if the waiver relates to assisting in the state's response for to a public health emergency).

[Bill Section: 35]

## **2. WAIVER OF INTEREST, PENALTIES, AND PAYMENTS -- STATE AGENCIES**

Permit, upon the effective date of the bill until December 31, 2021, any state agency to waive any interest, penalties, or payments owed to the state.

Define "agency" as any office, department, institution of higher education, association, society, authority, or body in state government created by the constitution on state law. Exclude the Legislature and the Courts from the provision.

The provision would also apply to local governments (see "Shared Revenue and Property Tax Relief." Also, see "Revenue" for information on the treatment of taxes under this provision.)

[Bill Section: 36]

## **HEALTH SERVICES**

### **1. PANDEMIC RESPONSE**

GPR	\$63,000,000
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Provide \$63,000,000 in 2020-21 for the Department to expend on community testing, contact tracing, vaccinations, and public awareness related to the COVID-19 pandemic. Create an annual appropriation in the Division of Public Health for this purpose.

The administration indicates that this funding would be allocated as follows: (a) \$36,000,000 to expand contact tracing efforts and maintain support for 1,500 state and local contact tracers; (b) \$15,000,000 to support COVID-19 testing, in collaboration with the Department of Administration; (c) \$10,000,000 to fund costs to rapidly distribute COVID-19 vaccines; and (d) \$2,000,000 for public health guidance and awareness activities, including maintaining the current "You Stop the Spread" campaign that promotes hand-washing, mask-wearing, physical distancing, and staying home as much as possible.

[Bill Sections: 1 (as it relates to 20.435(1)(dw)) and 2]

## **2. AUTHORITY TO ISSUE ORDERS TO PROHIBIT EVICTIONS AND FORECLOSURES**

Authorize the Department to issue an order prohibiting the commencement of any action for eviction under Chapter 704 ("Landlords and Tenants") and Chapter 799 ("Procedure in Small Claims Actions") and for foreclosures under Chapter 846 ("Real Estate Foreclosures") for any period before January 1, 2022. Provide that the order could be applicable statewide, or may be geographically limited.

[Bill Section: 32]

## **INSURANCE**

### **1. NO COST SHARING FOR COVID-19 TESTING, TREATMENT, AND VACCINATIONS**

Require any self-insured health plan offered by a local government or school district, any health insurance policy, and any state health plan that generally covers testing and treatment for infectious diseases to provide coverage of testing and treatment for COVID-19, including prescription drugs and administration of any vaccination developed to prevent COVID-19 without imposing any copayment or coinsurance on the individual covered under the policy or plan, for any such testing, treatment, or vaccination rendered prior to January 1, 2022.

A provision of 2019 Act 185 prohibited copayments and coinsurance for COVID-19 testing conducted prior to March 13, 2021. This item would extend the expiration of this provision, with respect to COVID-19 testing, and also prohibit cost sharing for COVID-19 treatment and vaccination. Because of federal preemption, neither this provision, nor the Act 185 provision, applies to a self-insured plan offered by a non-governmental employer. However, a provision of the federal Families First Coronavirus Response Act provides for similar restrictions on cost sharing with respect to COVID-19 testing administered for diagnostic purposes, applicable to insurance policies and self-insured plans offered by private employers. This federal provision is operative as long as the federal public health emergency related to COVID-19 remains in effect. A provision of the federal Affordable Care Act prohibits cost sharing for certain recommended preventative services, including recommended vaccinations, applicable to insurance plans and self-insured plans.

[Bill Section: 46]

### **2. TELEHEALTH COVERAGE PARITY**

Prohibit any health insurance policy, state employee health plan, or self-insured health plan offered by a local government or school district from denying coverage, before January 1, 2022, of

any treatment or service provided through telehealth if that treatment or service is covered by the policy or plan when provided in person by a health care provider. Specify that limited service health organizations, preferred provider plans, and defined network plans are subject to this provision.

Define "telehealth" as a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or consultation or are used to transfer medically relevant data about a patient. Authorize the Office of the Commissioner of Insurance to promulgate any rules necessary to implement this provision.

[Bill Sections: 13 thru 15, 28, 31, 44, and 45]

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

Specify that, prior to January 1, 2022, any defined network or preferred provider health plan may not require an enrollee to pay, including cost sharing, for a service, treatment, or supply rendered by a provider that is not in the plan's network more than the enrollee would pay if the service, treatment, or supply is rendered by an in-network provider, if the following apply to: (a) a service, treatment, or supply that is related to a diagnosis or treatment for COVID-19; or (b) any service, treatment, or supply that is rendered by an out-of-network provider because no in-network provider is available due to the COVID-19 pandemic. Specify that, in these circumstances, the plan must reimburse the out-of-network provider at 250 percent of the rate the federal Medicare program reimburses the provider for the same or a similar service, treatment, or supply in the same geographic area.

Specify that, prior to January 1, 2022, any health care provider or facility that renders a service, treatment, or supply to an enrollee of a defined network plan or preferred provider plan that does not include the health provider or facility in its network must accept as payment in full any payment that is at least 250 percent of the Medicare rate for a similar service, treatment, or supply in the same geographic area. Prohibit the provider from charging the enrollee an amount that exceeds the amount the provider or facility is reimbursed by the defined network plan or preferred provider plan.

Similar restrictions on out-of-network charges and payments were included in 2019 Act 185, except that these restrictions expired 60-days following the public health emergency declared by the Governor on March 12, 2020, and the payment level was set at 225 percent of the Medicare rate instead of 250 percent of the Medicare rate.

[Bill Sections: 42 and 43]

### **4. PRESCRIPTION DRUG LIMITS**

Prohibit any health insurance policy, state employee health plan, or self-insured health plan offered by a local government or school district, or a pharmacy benefit manager acting on behalf of a policy or plan from doing the following prior to January 1, 2022: (a) requiring prior authorization

for early refills of a prescription drug or otherwise restrict the period of time in which a prescription drug may be refilled; or (b) imposing a limit on the quantity of prescription drugs that may be obtained if the quantity is no more than a 90-day supply. Specify that these restrictions do not apply to a prescription drug that is classified as a controlled substance by the Controlled Substances Board.

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

[Bill Section: 47]

## **5. LIABILITY INSURANCE FOR PHYSICIANS AND NURSE ANESTHETISTS**

Specify that, prior to January 1, 2022, any physician or nurse anesthetist for whom Wisconsin is not a principal place of practice but who is authorized to practice in Wisconsin on a temporary basis, may fulfill the state's practice liability insurance requirements by filing with the Office of the Commissioner of Insurance a certificate of insurance for a policy of health care liability insurance issued by an insurer that is authorized in a jurisdiction accredited by the National Association of Insurance Commissioners. Specify that such a physician or nurse anesthetist may elect, in a manner specified by the Insurance Commissioner by rule, to be subject to the state's liability provisions and the state's injured patients and families compensation program.

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

[Bill Section: 48]

## **PUBLIC INSTRUCTION**

### **1. SCHOOL AND SCHOOL DISTRICT ACCOUNTABILITY REPORTS**

Prohibit the Department of Public Instruction from publishing school and school district accountability reports in the 2021-22 school year.

Under current law, DPI is required to publish accountability reports annually no later than November 30. The report cards issued each fall are based on data from assessments administered the previous spring. 2019 Act 185 prohibited DPI from publishing school and school district accountability reports in the 2020-21 school year

[Bill Section: 26]

## 2. PUPIL ASSESSMENTS

Specify that current law requiring assessments to be administered annually to pupils attending school in a public school district, independent charter school, private choice school, or special needs scholarship program school would not apply in 2020-21. Current law requires pupils to be given an assessment of reading readiness in grades 4K-2, an annual reading test in the 3rd grade, and assessments adopted by the State Superintendent in the 4th, 8th, 9th, 10th, and 11th grades. 2019 Act 185 specified that pupil assessment requirements would not apply in the 2019-20 school year.

Specify that pupil performance on assessments in the 2020-21 school year could not be considered for the evaluation of teachers and principals under the statewide educator effectiveness system. Under current law, the educator effectiveness system must be based in part upon measures of pupil performance, including performance on state assessments.

[Bill Sections: 27 and 49(1)]

## REVENUE

### 1. GRANTS TO SMALL BUSINESSES

GPR	\$75,000,000
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Create an annual appropriation under Shared Revenue and Tax Relief and provide \$75,000,000 GPR in 2020-21 for the Department of Revenue (DOR) to provide grants to small businesses in Wisconsin in the manner prescribed by the Department.

[Bill Sections: 1 (as it relates to s. 20.835(2)(an)), 4, and 16]

### 2. WAIVE INTEREST, PENALTIES, AND PAYMENTS

Permit the Secretary of DOR to waive any interest, penalty, or payment owed to the state that accrues or becomes due beginning on the effective date of the bill and ending on December 31, 2021.

The fiscal effect of this provision is unknown, as the provision is permissive rather than mandatory. The Secretary would be allowed to waive general fund tax collections owed, including tax payment amounts, interest, and penalties.

In addition to general fund tax collections, DOR collects revenues owed to other state and local entities, such as local government sales tax payments, motor vehicle fuel tax revenues deposited in the transportation fund, and other debts and payments owed to state and local agencies. Under the bill, the DOR Secretary would have the authority to waive these payments owed, and any interest or penalties that may accrue, through December 31, 2021.

[Bill Section: 36]

## **SAFETY AND PROFESSIONAL SERVICES**

### **1. EXTENSION OF PRESCRIPTIONS BY PHARMACISTS**

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

Provide that this provision would take effect on the bill's general effective date and terminate on December 31, 2021. An identical provision was enacted as part of 2019 Wisconsin Act 185, but terminated 30 days after Executive Order 72 expired.

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

[Bill Sections: 39 thru 41]

## **SHARED REVENUE AND TAX RELIEF**

### **1. WAIVER OF INTEREST, PENALTIES, AND PAYMENTS -- LOCAL GOVERNMENTS**

Allow local governmental units to waive any interest, penalty, or payment of a debtor that accrues or becomes due after the effective date of the bill through December, 2021, with respect to a debt owed to the local governmental unit. Define local governmental units as political subdivisions, special purpose districts, an agency or corporation of a political subdivision or special purpose district, or any combination or subunit thereof. This provision would apply to any debt owed the local unit of government, including any property taxes owed.

[Bill Section: 36]

## WORKFORCE DEVELOPMENT

### 1. UNEMPLOYMENT INSURANCE -- BENEFIT CHARGING FOR REIMBURSABLE EMPLOYERS

Specify that the DOA Secretary may transfer any amount from the unencumbered balance of any appropriation of an executive branch agency to the Department of Workforce Development's (DWD) unemployment interest and penalty PR continuing appropriation account. Provide that the transfers made under this provision may not exceed the amount required to make payments resulting from the reimbursable employer benefit charging provisions included in 2019 Act 185.

Under 2019 Act 185, if an unemployment insurance (UI) benefits claim or work-share plan is related to a public health emergency, regular benefits for weeks occurring after March 12, 2020, and before December 31, 2020, must not be charged to an employer as normally provided. Instead, UI benefits for those weeks are charged to either: (a) the balancing account of the UI trust fund, for claims attributable to contribution employers subject to regular unemployment payroll taxes; or (b) DWD's interest and penalties account, for claims attributable to reimbursable employers that are not subject to contribution requirements.

Reimbursable employers, including almost all governmental units and certain nonprofit organizations, finance unemployment claims on a reimbursement basis as they are filed by employees. The Act 185 provision requires that payment for such claims come from DWD's UI interest and penalty revenues, if claims are determined to be related to the public health emergency. This provision does not apply in certain circumstances, including for any benefits paid or reimbursed by the federal government, such as the portion of any benefits reimbursed by the federal government for reimbursable employers.

DWD's interest and penalty appropriation account closed the 2019-20 fiscal year with a \$15.6 million continuing balance. DWD's 2021-23 agency budget request documents estimated a \$100 million liability to the interest and penalty appropriation for reimbursable benefit expenditures resulting from the provision of 2019 Act 185.

[Bill Section: 25]

### 2. UNEMPLOYMENT INSURANCE -- RECEIPT OF SOCIAL SECURITY DISABILITY INSURANCE BENEFITS

Repeal the statutory provisions disallowing UI benefits to an individual for each week in the entire month in which the person receives a social security disability insurance (SSDI) payment. Delete the requirement that when a claimant files an initial or weekly claim for UI benefits that they must inform the Department whether they are receiving SSDI payments.

Under current law, a claimant cannot claim regular state UI benefits and SSDI payments concurrently. However, DWD and the U.S. Department of Labor have determined a claimant can

receive SSDI payments and Pandemic Unemployment Assistance (PUA) at the same time.

[Bill Sections: 19, 21, 50(3), and 51(1)]

### **3. UNEMPLOYMENT INSURANCE -- WAITING WEEK**

Extend the waiver of the waiting week requirement under 2019 Act 185 through January 2, 2022. Currently, under Act 185, the waiting week requirement is waived from March 12, 2020, through February 7, 2021. Under Act 185, and continued under this provision, DWD must seek the maximum amount of federal reimbursement for UI benefits that are payable for the first week of a claimant's benefit year as a result of the application of this provision. (The CARES Act provides 100% federal funding of the first week of regular UI benefits for states with no waiting week through December 31, 2020.)

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

[Bill Section: 20]

### **4. UNEMPLOYMENT INSURANCE -- WORK SEARCH WAIVERS**

Specify that DWD may promulgate rules for additional waivers of the requirements under current law that UI claimants register for work and search for work. Specify the waivers may apply to the period beginning on the effective date of the bill and ending on January 1, 2022. Provide that the Department may promulgate emergency rules without a finding of emergency.

Specify that a claimant may receive UI benefits for any week in which the claimant failed to comply with the registration for work or work search requirements, or failed to provide verification to DWD that the claimant complied with those requirements, if the Department has waived those requirements under emergency rules.

Emergency Order 7, as signed by the Governor on March 18, 2020, and retroactively effective to March 12, 2020, required DWD to consider a claimant to be available for suitable work during a public health emergency if the claimant is perceived by an employer as exhibiting COVID-19 symptoms preventing a return to work or the claimant is quarantined by a medical professional or under local, state or federal government direction or guidance. Further, one of the following must apply: (a) the employer has instructed the claimant to return to work after the employee no longer exhibits symptoms, after a set amount of time to see if the disease is present, or after the quarantine is over; (b) the employer has not provided clear instruction for the claimant to return to work; or (c) the claimant would be available for other work with another employer but for the perceived COVID-19 symptoms preventing a return to work or the quarantine. Emergency Order 7 also provided that

during a week in which there is a public health emergency, the following apply: (a) no work is actually available within such a week; (b) an employee is not considered absent from work if the employee is perceived by an employer as exhibiting COVID-19 symptoms preventing a return to work or the employee is quarantined by a medical professional or under local, state or federal government direction or guidance; and (c) a public health emergency constitutes four work search actions for each claimant who files a claim for unemployment benefits. An emergency rule to implement the work search and work registration waiver provisions of Emergency Order 7 was published on May 9, 2020. The emergency rule is currently in effect through February 2, 2021.

[Bill Section: 49(2)]

## **5. UNEMPLOYMENT INSURANCE -- WORK SHARE**

Extend the suspension of certain work-share program provisions created under 2019 Act 185, for work-share plans submitted to DWD prior to January 2, 2022, instead of prior to December 31, 2020, as specified in Act 185. Specify that the period or periods when a work-share plan will be in effect may not exceed a total of 12 months in any five-year period within the same work unit, as opposed to six months in any five-year period under current law. The extension to 12 months in any five-year period would be a permanent change to Wisconsin's work-share law.

Under current law, as specified in Act 185, for work-share plans submitted on or after April 17, 2020, and before December 31, 2020: (a) work-share plans must cover at least two positions that are filled on the effective date of the work-share program, rather than at least the greater of 20 positions or 10% of employees in a work unit under current law; (b) the maximum reduction in working hours under a work-share program may be either 60% of the normal hours per week of the employees included under a work-share plan, or any other maximum provided by federal law, whichever is greater, rather than the 50% reduction provided under current law; and (c) reduced working hours are to be apportioned equitably among employees in the work-share program. The bill would extend these provisions for work-share plans submitted to DWD prior to January 2, 2022.

Work-share programs, which are also called "short-term compensation programs" under federal law, are designed to provide a prorated unemployment benefit for employees of employers who voluntarily make an agreement with the state to reduce work hours instead of laying off workers. For states that currently have a federally approved work-share program, like Wisconsin, the CARES Act provides 100% federally funded UI benefits through December 31, 2020. Wisconsin's work-share program is normally funded entirely through the employer's UI account.

[Bill Sections: 22 thru 24, 50(2), and 51(1)]

## **6. WORKER'S COMPENSATION BENEFITS**

Specify that, for worker's compensation benefits, where an injury to a critical worker is found to be caused by COVID-19, during the period beginning on the effective date of the bill, and ending on December 31, 2021, the injury is presumed to be caused by the individual's employment. Specify that an injury to a critical worker under this provision must be accompanied by a specific diagnosis

of COVID-19 by a physician, or by a positive diagnostic test result for the disease. Further, specify that an injury to a critical worker under this provision may be rebutted by specific evidence that the injury was caused by exposure to COVID-19 outside of the individual's work for the employer. Require the DHS Secretary to define critical workers for the purposes of this provision.

Provide that certain benefits entitlements and conditions under current law for exposure to non-disabling toxic or hazardous materials would not apply to a critical worker whose injury claim is presumed to be caused by COVID-19 during the period specified in this provision.

In general, Wisconsin worker's compensation law allows compensation for cases of death or injury in the course of one's employment. Current law defines "injury" as mental or physical harm to an employee caused by accident or disease. 2019 Act 185 provides, for the purposes of worker's compensation benefits, that an injury to a first responder found to be caused by COVID-19 during the public health emergency declared by the Governor on March 12, 2020, by Executive Order 72, and ending 30 days after the termination of the order, is presumed to be caused by the individual's employment. In applying the presumption: (a) the person must have been exposed to others with confirmed cases of COVID-19 in the course of employment; and (b) the person must have received a specific diagnosis of COVID-19 by a physician or by a positive COVID-19 test. A claim is subject to rebuttal by any specific evidence that the injury was caused by exposure to COVID-19 outside of the first responder's work for the employer. Act 185 defines "first responder" to mean an employee of, or volunteer for, an employer that provides firefighting, law enforcement, or medical treatment of COVID-19, and who has regular, direct contact with, or is regularly in close proximity to, patients or other members of the public requiring emergency services, within the scope of the individual's work for the employer.

[Bill Sections: 17, 18, and 34]