Work Perks: Policies Helping Wisconsin's Small Businesses Offer Employee Benefits

Report Prepared for the Office of the 64th Assembly District,
Representative Tip McGuire

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Table of Contents

Foreword

This report is the result of collaboration between the Robert M. La Follette School of Public Affairs at the University of Wisconsin–Madison and the Office of Representative Tip McGuire, Assembly District 64, in Kenosha, Wisconsin. This project offers valuable research for Representative McGuire and provides graduate students at the La Follette School the opportunity to demonstrate their policy analysis skills as the culmination of their degrees.

At the La Follette School, students study the craft of policy analysis and public management. Although studying policy analysis is important, there is no substitute for engaging actively in applied policy analysis. Representative McGuire has given our students the opportunity to analyze a critical set of problems related to providing important benefits to people in our state. Small business owners are challenged to provide the same level of health insurance, retirement, and paid leave benefits for their employees as larger employers—the result is that people have different access to important programs that they need to be successful.

The Office of Representative McGuire proposed this research topic in collaboration with La Follette School faculty and staff. The students working on this research partnership have worked independently to develop this report, with the goal of identifying policy options for improving access to benefits for people who work at small businesses statewide.

I am grateful to Representative McGuire for partnering with the La Follette School on this project. The students have collectively contributed hundreds of hours to the project, and in the process, they have developed critical insights about small business policies and regulations. The La Follette School is proud of their efforts, and I hope that this report proves valuable to Representative McGuire and other policymakers.

J. Michael Collins
Professor of Public Affairs
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Madison, Wisconsin

Acknowledgements

We would like to extend our sincerest gratitude to everyone who helped this report come to fruition. First, we would like to thank our client, Representative Tip McGuire for the opportunity to participate in this project and Dan Housh for his guidance throughout the analysis. We are incredibly grateful to the small business owners and health, retirement, and paid leave experts who shared their experiences, insight, and ideas. We would also like to thank Lisa Ellinger and Lisa Hildebrand for their feedback and critical editing of this report. Finally, we would like to thank Professor J. Michael Collins of the La Follette School of Public Affairs at the University of Wisconsin–Madison for his support, expertise, and feedback.

Executive Summary

Small businesses are the heart of Wisconsin's economy. Yet, many small businesses are struggling to attract and retain workers because of the challenges they face in providing benefit packages. Through our research and interviews with health, retirement, and paid leave experts, as well as small business owners in Wisconsin's 64th Assembly District, we documented that rising costs are preventing small businesses from offering benefits for employees. These offerings are increasingly important for employees and hamper small businesses' ability to keep a competitive workforce. The purpose of this report is to investigate state-level policies with the potential to help small businesses provide access to health insurance, retirement plans, and paid leave.

This report explores six policy proposals across these three areas. Each policy proposal is evaluated based on five impact categories: the policy's ability to expand benefits coverage, the cost to the State of Wisconsin (public cost), the cost to small business owners, the administrative work required, and the feasibility of successful implementation. The policy proposals are not substitutes; each provides a unique lever to address the major concerns presented by small business owners. The options could be pursued individually, packaged with another option, or staggered over time.

Benefit Area #1: Health Insurance Coverage Options:

- Expand the Small Business Health Options Program (SHOP) within the existing Federally-Facilitated Marketplace or transition to a State-Based Marketplace
- Open the State of Wisconsin employee insurance pool to small business employees

Benefit Area #2: Retirement Plan Coverage Options:

- Auto-IRA Plan
- Multiple Employer Plan

Benefit Area #3: Paid Leave Coverage Options:

- Mandate, tax credit for employers
- Wisconsin Paid Family and Medical Leave Insurance

There is no one silver bullet for addressing the concerns of small businesses in providing more robust benefits for employees. This report provides policymakers with a set of innovative ideas to help small businesses and employees across Wisconsin. Below is a brief evaluation of our six proposals.

IMPACT	SHOP-Federal	SHOP-State	Small Business Option Plan	Auto-IRA Plan	Multiple Employer Plan	Paid Sick Leave	Paid Family and Medical Leave Insurance
Coverage	★	★★	★★★	★★★	★★	★★	★★★
Public costs	★★★	★★	★	★★	★★★	★★	★
Employer costs	★	★★	★★★	★★	★	★	★★★
Administrative costs	---	★	★★★	★	★	★	★★★
Feasibility	★★★	★	---	★	★★	★★★	★★

Legend: Poor ---, Fair ★, Good ★★, Very Good ★★★

Acronym Guide

ACA	Affordable Care Act
CMS	U.S. Centers for Medicare & Medicaid Services
DOL	U.S. Department of Labor
DWD	Wisconsin Department of Workforce Development
ERISA	Employee Retirement Income Security Act
ETF	Wisconsin Department of Employee Trust Funds
FFM	Federally-Facilitated Marketplace
HHS	U.S. Department of Health and Human Services
IRA	Individual Retirement Account
MEP	Multiple Employer Plan
OCI	Wisconsin Office of the Commissioner of Insurance
PBM	Pharmacy Benefit Manager
PFML	Paid Family and Medical Leave
PFMLA	Paid Family and Medical Leave Act
PFMLI	Paid Family and Medical Leave Insurance
SBM	State-Based Marketplace
SHOP	Small Business Health Options Program

Introduction

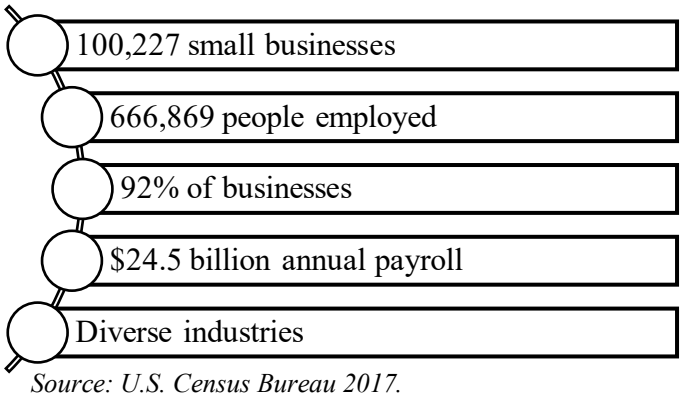
Small businesses are the heart of Wisconsin's economy. They employ local workers, adapt quickly to changing economic climates, contribute to local government through taxes, foster competition, and spark innovation. But these business owners often struggle to attract and retain quality employees because they cannot compete with the benefits offered by larger companies. In today's labor market, workers expect and rely on employer-provided benefits. For many small businesses, that is a challenge. Offering benefits is costly, and managing benefits is exceptionally difficult for small business owners who may not have any human resources staff. However, not offering benefits has ramifications for small businesses, because their employees face issues of access to, affordability of, and quality of benefits.

This report analyzes a set of policies that could help small businesses attract and retain workers by providing better benefits, specifically health insurance, retirement savings plans, and paid leave. Each policy area can stand alone, or all can be taken together as examples of strategies the State of Wisconsin can pursue to support small businesses. These are not comprehensive solutions, but rather each benefit area provides a framework for approaching these issues.

At the time of this report's completion, the spread of COVID-19 and subsequent record levels of unemployment have put unprecedented strain on both workers and businesses as they balance the needs of economic survival with the growing public health crisis. This crisis underscores the importance and fragility of small businesses and how the well-being of families and communities are linked to these businesses. Even before COVID-19, Wisconsin was falling behind other states in making it easier or more affordable for small businesses to ensure their employees had access to certain benefits. Now, more than ever, it is crucial to support small businesses in providing benefits that help their employees live healthy lives, plan for the future, and take care of themselves and their loved ones.

Small Business Landscape

Figure 1 shows that more than 100,000 small businesses in Wisconsin employ nearly 667,000 people as of 2017 (U.S. Census Bureau 2017). These employers create local jobs and operate in diverse industries, where they must compete with larger companies for talent. (See Appendix A for a breakdown of Wisconsin's small business industries.)



Source: U.S. Census Bureau 2017.

Figure 1 **Wisconsin's Small Business Profile**

For this report, small businesses are defined as those with 50 or fewer employees, unless otherwise noted.
These businesses are particularly disadvantaged compared with larger businesses, which have more resources to offer employees better benefits. Nationally, only 52 percent of small businesses provide health insurance, and only 48 percent offer some form of retirement savings. Comparatively, businesses with 100 or more employees are far more likely to offer health and retirement benefits at 92 and 88 percent, respectively. Small businesses also fall behind in providing paid leave, with only 64 percent offering paid sick leave and 14 percent providing paid family leave, Larger companies provide these benefits at rates of 85 percent and 23 percent, respectively ("National Compensation Survey: Employee Benefits in the United States, March 2019" 2019).

The COVID-19 Context

With soaring unemployment, the employer- and employee-benefit landscape is very different than it was when we began our research, and it is likely to change again by the time this report is published. The Coronavirus Aid, Relief, and Economic Security (CARES) Act, passed on March 27, 2020, demonstrates that the federal government recognizes the significant negative economic impact COVID-19 has had on small businesses. While the CARES Act is a significant step toward assisting small businesses, it is insufficient. The focus of this report is long-term solutions that benefit small businesses and their employees, regardless of economic conditions.

Nearly 1 in 4 businesses with 50 or fewer employees say they are two months or less from closing permanently amid the economic downturn caused by COVID-19.

Source: Swanek 2020.

Research Approach

To undertake this analysis, we conducted a combination of interviews, literature reviews, and state-level research. In particular, we examined what other states have proposed and implemented to address issues surrounding employee benefits. We interviewed key stakeholders, including health, retirement, and paid leave experts as well as small business owners from Wisconsin's 64th Assembly District. The literature review gave us a broad overview of other states' programs that assist small business owners in providing employee benefits, while our interviews with experts provided valuable insights into how those programs perform in various states. Our interviews with small business owners allowed us to understand the problems facing Wisconsin businesses, specifically, and their concerns with providing benefits.

Our research made it clear that small businesses want to offer employees health insurance, retirement savings plans, and paid leave. However, they unable to do so, because it is often too costly and burdensome, and their size often puts them at a disadvantage. Table 1 outlines the primary reasons that small businesses often forgo employer-provided benefits as well as potential policy levers to engage in addressing those issues. Businesses that lack the time to research and implement a new system or that are too small to negotiate lower administrative fees could gain from external third parties that oversee and administer benefits. Leaning more heavily on government provision of benefits can reduce the burden for businesses that cannot afford to increase operating costs. And reduced costs for providing employee benefits can be achieved through tax incentives or access to larger pools of individuals that increase negotiating power and share risk.

The goals of this analysis are to help small businesses provide employees with affordable, quality benefits and better compete with larger businesses for talent. Therefore, we pose a range of remedies to address the underlying problems small businesses have identified in providing employee benefits.

Problems in Providing Employee Benefits	Potential Remedy
Too confusing, too time consuming	• Reduce regulatory burden • Use third party to oversee benefit
Too expensive	• Tax incentives • Government provision • Pool risk

Table 1: **Problems in Providing Employee Benefits**

Evaluation Framework

In evaluating policies to address small businesses' ability to offer employee benefits, it is important to consider several features: coverage, efficiency, and feasibility. We illustrate the strengths and weaknesses of various benefit programs by assessing policy proposals based on these features.

Coverage

A primary reason to pursue policy intervention for small businesses is to equalize access to adequate benefit packages among small and large companies. Closing the gaps between the two is integral because health insurance, retirement, and paid leave are proven to increase job satisfaction and retention. We further evaluate policies based on how well they increase both the number of small businesses offering benefits and employee take-up of benefits.

Efficiency

We consider efficiency in our evaluation of policy proposals, specifically as it pertains to costs.

Public Costs
First, we evaluate benefit programs based on their cost to the state. This becomes particularly relevant when considering proposals that shift benefit-program administration from business owners to the state. However, the state may also incur costs for incentive structures, such as tax breaks, that may ease the burden on small business owners.

Employer Costs
Second, the cost of providing benefits is a significant barrier for employers. As the primary purveyor of employee benefits, employers face direct costs, both fixed and marginal. Effective policy would seek to keep these costs reasonable for small businesses that may lack the liquidity to provide benefits on top of wages.

Administrative Costs
Third, we consider the administrative burden benefit programs would place on small businesses. Larger companies often have human resources, payroll, and legal departments that can help navigate benefit programs. Small business owners, on the other hand, are more likely to manage the programs themselves or with very limited help. Therefore, effective policy should ease any administrative burden employers' face when offering benefits to their employees.

Feasibility

Finally, it is important to evaluate the feasibility of policies in Wisconsin. Numerous legal and regulatory barriers exist at the state and federal levels. The complicated web of regulations from the Employee Retirement Income Security Act (ERISA) to state payroll and tax codes means that some programs will face a harder path to implementation than others.

Background on the Employee Retirement Income Security Act (ERISA)

Many of our proposals require state legislators to navigate the complex provisions of the Employee Retirement Income Security Act (ERISA) of 1974, which is no small challenge. This sweeping legislation established the federal government's authority to regulate "employee welfare benefit plans" (*The Employee Retirement Income Security Act* 1974). ERISA does not mandate that employers provide benefits coverage, but it does set minimum standards for how private health and pension plans operate.

For example, retirement and health plans subject to ERISA must provide participants with important information regarding their plan, and plan administrators assume fiduciary responsibilities to ensure the plans are operated in the beneficiary's best interest.

Health plans were included in ERISA's oversight as more of an afterthought, yet ERISA has become singularly influential in state health reform (Gluck, Hoffman, and Jacobson 2017). Section 514, often referred to as the

preemption clause, allows ERISA to supersede "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan," regardless of whether the laws conflict with one another. (*The Employee Retirement Income Security Act* 1974).

The courts have broadly interpreted what should be included in preemption, leading to a complex and constantly evolving situation for policymakers. This has significantly shaped the employer-provided health insurance market and limited state control over health policy (Gluck, Hoffman, and Jacobson 2017). Because some plans are subject to ERISA while others remain exempt, the laws that regulate health plans differ depending on plan type.

Broadly speaking, private health plans are subject to ERISA to some degree, while most government or church plans are exempt (*The Employee Retirement Income Security Act* 1974). And generally, if a plan is subject to ERISA, it is exempted from those state laws that are preempted, while if a plan is ERISA exempt, it must comply with state laws. However, the details are complex and subject to interpretation by the courts. It is crucial to understand the distinctions between and the state's ability to regulate various plans under ERISA. Health plans that are fully insured are subject to different laws than those that are self-funded, which is closely related to the size of the business. (See Appendix B for details on ERISA and plan funding type.)

Ensuring ERISA compliance while undertaking state health plan reform can be daunting. The National Academy for State Health Policy encourages state officials to craft desirable health policy, but to do so with a strong understanding of ERISA preemption and the help of legal advisors (NASHP 2009).

Benefit Area #1: Health

The United States relies heavily on employer provision of health insurance. Nearly 60 percent of employees in the United States have health insurance through an employer, which is the single largest source (Lee 2019). Figure 2 shows the coverage breakdown for health insurance in Wisconsin (KFF 2018). Although small businesses employ a large share of the workforce, they face complicated barriers to affording and administering health plans beyond those faced by larger businesses.

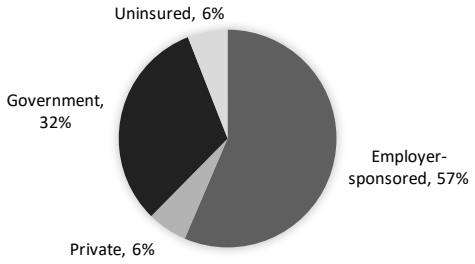


Figure 2: **Health Insurance Coverage in Wisconsin**

The Affordable Care Act (ACA) significantly altered health insurance markets and was particularly beneficial for small businesses and their employees. Small business owners and people who are self-employed were three times more likely to purchase coverage through the ACA's newly established marketplace compared with other groups. In addition, an estimated 1.7 million small business employees gained coverage under Medicaid following the expansion. This lowered the national uninsured rate for small business employees by almost 10 percentage points after ACA implementation (Chase and Arensmeyer 2018).

The ACA does not require businesses to provide health insurance benefits to their workers, but large employers may face penalties if they do not make affordable coverage available. However, small businesses with fewer than 50 employees are exempt from these penalties. This leaves many small business employees without access to a workplace health insurance plan. Often, these workers do not qualify for government-sponsored health insurance, such as Medicaid and Medicare, and they must purchase insurance through the individual market or go uninsured.

A 2019 survey by the Commonwealth Fund found that small business owners view the cost of providing health insurance benefits as the biggest challenge they face. And while smaller businesses were more concerned with

costs of health insurance benefits than larger ones, both were troubled by the issue. Almost all (92 percent) expressed a willingness to work with other small businesses toward solutions. Most were highly interested in policies that would pool small businesses to gain market power for purchasing health insurance and in proposals to reduce prescription drug costs.

Small businesses want healthy and productive employees, and they know that employees consider health insurance coverage as an important part of their overall compensation package. If these small employers cannot offer competitive coverage, they may lose top job candidates or may be unable to retain them.

Policy Proposal 1: SHOP Marketplace Improvements

Policymakers recognize that small businesses struggle to provide health insurance benefits to their workers (R. Robertson et al. 2012) and addressed this issue in the ACA by creating the Small Business Health Options Program (SHOP). SHOP is intended to be a single, neutral portal for employers to offer employees a choice of plans without influence from insurers and brokers. It allows employers with fewer than 50 full-time workers to compare health insurance plans. Businesses with fewer than 25 full-time employees also qualify for a small business health care tax credit, if their employees enroll in SHOP plans. (See Appendix C.)

While SHOP was created at the federal level, states determine what type of insurance marketplace they want to operate. (See Appendix D for a map of marketplace type by state.) As of 2020, Wisconsin and 31 other states use the Federally-Facilitated Marketplace (FFM) operated by the federal government. Six states take a blended approach, operating a State-Based Marketplace that utilizes the federal platform (SBM-FP). Residents in these states use the federal platform, but the state is responsible for the remainder of the marketplace functions. The remaining 13 states operate their own State-Based Marketplace (SBM), where they create and maintain their own website and perform all marketplace functions (See Appendix E for details on key differences between marketplace models.) Six other states are at varying stages of transitioning to an SBM (Kaiser Family Foundation 2019b).

Although well-intentioned, the SHOP marketplaces have seen lackluster enrollment (Shapiro 2015). In 2015, only 10,700 employers representing 85,000 people enrolled in coverage through SHOP. In contrast, more than 10 million people signed up for health insurance through the individual exchanges.

When first implemented, states were required to establish SHOP marketplaces or use HealthCare.gov. However, in recent years, the U.S. Department of Health and Human Services (HHS) transitioned the federal SHOP marketplace to direct enrollment, where small businesses buy coverage directly from insurers or through brokers. HHS also eliminated a rule designed to boost SHOP participation. This rule prohibited insurers with significant market share from participating in a state's individual marketplace unless they also offered coverage through the state's SHOP marketplace (Corlette 2016). Without this requirement, many insurers stopped offering plans on the SHOP marketplace, which has led to a decrease in competition.

Wisconsin has one of the more competitive SHOP marketplaces among FFM states, as many states have one or fewer insurers. Most Wisconsin counties have one insurer that offers FFM plans, and three counties have two insurers that offer FFM plans (Wisconsin Office of the Commissioner of Insurance 2020). The Centers for Medicare & Medicaid Services (CMS) stopped reporting SHOP data, but as of January 2017, Wisconsin's SHOP marketplace had 217 active employers covering 1,364 employees (Center for Medicare and Medicaid Services 2017). If an employer does not find a plan on the FFM, Wisconsin's Office of the Commissioner of Insurance (OCI) instructs small business owners to contact the insurance company directly or go through an agent or broker (Wisconsin Office of the Commissioner of Insurance 2020).

Despite waning federal involvement, many states have stepped up to bolster their SHOP marketplace. States across the country are trying to increase SHOP enrollment, control premiums, increase employer participation, flexibility, and choice, and expand insurer participation. Data show that these measures have worked—small businesses in these states have reported cost savings (Schwab, Giovannelli, and Lucia 2020).

Some states continue to operate their SHOP marketplace through direct enrollment with brokers, and other states run independent websites. (See Appendix F for a breakdown of SHOP operation method by state.) States that run their own SHOP platform have leveraged technology used in other states, making it easier for subsequent states to create and maintain their own online platform (Lefferts 2017).

We assess two ways in which the State of Wisconsin could bolster its SHOP marketplace. First, it could keep the current FFM—although this limits the policy actions available—and make improvements within the system. Second, Wisconsin could transition to operating its own SBM. At least two states (Nevada and New Mexico) that previously had an SBM operating on the federal platform (SBM-FP) have since transitioned to a full SBM (Schwab and Volk 2019). Because of the limited number of states with an SBM-FP and movement toward full SBM, we do not explore this option further.

Federally-Facilitated Marketplace (FFM)

If the State of Wisconsin continues operating SHOP on the FFM, it could take small steps to revitalize it. These steps include efforts to bolster carrier participation, reach out to small businesses, and work with the broker community, which drives much small business enrollment.

To increase carrier participation, the state could reestablish a tying requirement, eliminated by the federal government as of 2018. This required insurers that had at least 20 percent of a state's small group market (the marketplace for employers with up to 100 employees) to participate in SHOP if they wanted to participate in the individual market. Wisconsin could require qualifying insurers who want to offer small group or individual plans to offer SHOP plans as well. This has the potential to add insurers to the small group market and increase competition; however, it also could negatively impact the individual market. If insurers find the tying requirement too rigid, they may withdraw their participation entirely. Wisconsin should approach this balance carefully.

Another consideration for SHOP is the importance of forging relationships with brokers, who drive much of the small group enrollment. It is crucial to have engagement and buy-in among brokers, who should be at the table to help policymakers address affordability and other barriers for their clients. Policymakers should also examine commission structures for brokers and determine the incentives driving brokers to offer certain plans.

State-Based Marketplace (SBM)

Alternatively, the State of Wisconsin could transition from the FFM to an SBM. Although this would be no small feat, it would give the state more flexibility, autonomy, and authority to reduce barriers like special enrollment periods (CHIR Faculty 2016); customize an online platform for SHOP; control advertising, outreach, and assistance efforts; help small businesses take advantage of employee choice models; collect user fees; and more. (See Appendix G for more information on authority over key marketplace functions by model.)

The prospect of cost savings is one of the most compelling reasons for state lawmakers to consider a transition to an SBM. If operating on the FFM, CMS charges a user fee of 3 percent of premiums to operate the marketplace (U.S. Centers for Medicare and Medicaid Services 2019). States with an SBM pay no CMS user fees, which keeps premium

States operating SMBs are outperforming the federal marketplace at indicators including higher enrollment, lower premium rate hikes, more participating issuers, and successfully attracting a young consumer base.

Source: Cousart 2020.

assessments in-state. States can operate a full SBM better and cheaper than CMS by leveraging lower-cost technology and a leaner bureaucracy (Corlette 2016).

Advice from Marketplace Leaders for Building an SBM
Focus on the basics (and avoid scope creep)
Prioritize the consumer experience
Set clear expectations and timelines
Relationships are the foundation of an SBM
Establish clear leadership that can take quick action
SBMs serve as a "hub" for health reform across State agencies
Let SBMs adapt over time
Source: National Academy for State Health Policy

Some state policymakers hope that establishing an SBM will somewhat shield their residents from federal actions intended to undermine the federal marketplace. They also seek more control and authority over their marketplaces to improve operations, coordination across programs, and outreach and marketing (Cousart 2020).

Transitioning to an SBM would involve significant challenges and costs to states, and risks to consumers. The Center on Budget and Policy Priorities, a nonpartisan research and policy institute, notes, "to do it successfully, states must procure services from one or more (possibly new) vendors; transfer data from the federal system; and ensure that their new marketplace can share information with Medicaid and the Children's Health Insurance Program (CHIP), communicate with insurers, and maintain enrollment of existing marketplace consumers without a hitch" (Lueck 2020). Technological challenges are particularly concerning with a transition to an SBM.

To ensure that an SBM is a good use of resources, Wisconsin would need to develop a clear vision for how an SBM would function compared to the FFM. (See Appendix H for advice on transitioning to an SBM.) If Wisconsin operates an SBM, the Center on Budget and Policy Priorities argues, "it should do so to improve exchange operations, simplify the eligibility and enrollment process for consumers, improve coordination between the SBM and Medicaid, or offer additional financial assistance. States that transition to an SBM should have a plan to phase in near-term and longer-term improvements that would make this project worthwhile" (Lueck 2020).

A key to success for staying in the FFM or transitioning to an SBM depends on the state's ability to bolster enrollment through outreach, education, and publicity efforts with the small business community. Given the various administrative barriers small businesses face in navigating employee benefit plans and programs, it is important for state agencies and policymakers to work with trade groups, chambers of commerce, and small business groups to educate employers about existing plans and programs.

If Wisconsin supports a more robust SHOP marketplace, policymakers and regulators must be aware that unregulated insurance plans are becoming more prevalent (Palanker, Volk, and Kona 2019) and federal actions may push small businesses toward offering inadequate or discriminatory products (Giovannelli and Lucia 2019).

Evaluation of Proposal 1: SHOP Improvements

IMPACT	SHOP-FFM	SHOP-SMB
Coverage	★	★★
Public costs	★★★	★★
Employer costs	★	★★
Administrative Costs	---	★
Feasibility	★★★	★

Legend: Poor ---, Fair ★, Good ★★, Very Good ★★★

Coverage

The State of Wisconsin could work to increase the numbers of FFM health plan offerings, reach out to more small businesses about participating, and work with the broker community to draw attention to the benefits for small businesses. However, without robust competition among plans, employers and employees will not find SHOP plans attractive.

Although SHOP enrollment in SBM marketplaces are still somewhat modest, several states have seen significant enrollment increases (Schwab, Giovannelli, and Lucia 2020). California reported five consecutive years of double-digit percentage enrollment growth, with a 15 percent increase in membership from 2018 to 2019 (Covered California 2019). In 2019, Massachusetts SHOP saw record enrollment with more than 7,000 enrollees (Massachusetts Health Connector 2019). The District of Columbia has nearly 80,000 enrolled, far exceeding most other SBMs (DC Health Benefit Exchange Authority 2020). DC Health Link—the DC health marketplace—is allowing small businesses to enroll in plans at any time during 2020, even if they cannot meet the employer contribution and employee participation requirements.

Enrollment increases depend on the state's ability to successfully reduce enrollment barriers, customize an online platform for SHOP, and control advertising, outreach and assistance efforts, among other aspects of building an SBM (Schwab and Volk 2019).

Public Costs

If the State of Wisconsin stayed on the FFM, increasing competition may require little to no state money. For example, establishing a tying requirement for certifying insurers would not require state investment. The State of Wisconsin could invest small, medium, or significant funds to increase advertising, outreach, and assistance.

Transitioning to an SBM would require a significant initial investment and would likely require additional staff positions. However, it could save the state money in the long term. The main driver of cost savings is keeping user fees in state. For example, Nevada anticipates spending approximately $13 million per year (about $172 per marketplace enrollee) compared to about $19 million per year if the state continued paying user fees to the federal government (Silver State Health Insurance Exchange 2019). Pennsylvania, which plans to launch a full SBM in 2021, anticipates as little as $30 million per year to operate, compared with the $98 million the state's individual market insurers expect to pay the federal government (Gantz 2020). This will cost Pennsylvania between $101 and $172 per marketplace enrollee the first year. SBM states save anywhere from $40 to $260 per marketplace enrollee per year compared with FFM and "first-generation" SBMs (Lueck 2020). On the other hand, some costs are uncertain, including customer service centers. Vendor proposals in Nevada provided staffing estimates that

"varied by several hundred percent and suggested training that ranged from four to 12 weeks for new staff" (Lueck 2020). Further, Wisconsin must invest adequate resources to provide high-quality services from the beginning and continue to provide funding for improvements and unexpected costs.

Employer Costs

If the State of Wisconsin pursued SHOP improvements on the FFM, the cost of health insurance for employers would depend on whether the state is able to bolster insurer competition and drive down prices. If Wisconsin transitioned to an SBM, cost savings to small businesses also would depend on the type and functionality of the marketplace. In the Massachusetts SBM, employers and their employees save an average 20 percent compared with peers who purchased off-marketplace coverage (Audrey Gasteier, Vicki Coates, and Kari Miller 2019). Small employers in Washington, D.C., have also reported cost savings (DC Health Link 2019).

Administrative Costs

For SHOP improvements on the FFM, employers still would likely need a broker to help them navigate the health insurance system and would need administrative time to weigh the options, gather employee information, and so on. The administrative burden on employers would likely not change significantly if the State of Wisconsin stayed on the FFM.

Although most SBMs operate through direct enrollment with insurers or brokers, some run their own websites that allow small businesses to compare plans without the assistance of a broker and choose the one that is right for them. Depending on the Wisconsin SBM's features, administrative burden could be fairly similar to the status quo or could be somewhat reduced.

Feasibility

Implementing improvements to the FFM SHOP marketplace would pose relatively few challenges for the state. There would be no legal or structural barriers to taking action. Conversely, building an SBM is no small task. There are significant challenges and risks to consumers. To do it successfully involves developing relationships with vendors, managing complex technological systems; and maintaining ongoing communication with the federal government, insurers, and other stakeholders.

Policy Proposal 2: Small Business Option Plan

Lawmakers in Connecticut during the 2019 session renewed a similar idea brought forth in 2008 (Connecticut General Assembly 2008)—opening the state employee insurance pool to small business employees. H.B. 7267/S.B. 134 (Connecticut General Assembly 2019) is a comprehensive, multiphase public option bill where phase one opens the state employee insurance pool to all small businesses and nonprofit organizations with 50 or fewer employees. The proposal would exclude non-state public employers, such as local governments. The State of Wisconsin could model this singular phase of the larger bill to extend health insurance to small business employees.

The State Employee Health Plan provides a large, stable risk pool that would help control premium increases, and qualified employers would benefit from low administrative costs. In Wisconsin, the Department of Employee Trust Funds (ETF) and the State Comptroller in the Department of Administration (DOA) would likely be the two primary departments involved in administering the plan.

This option pools qualified employers with state employees and retirees under the state health insurance plan—given state approval of the employer's application. Premiums paid by qualified employers would be required to be the same as those paid by the state for state employees, except that they may be adjusted for geographic cost-of-living and network differences. (See Appendix I for details on premium rates.) This would provide small

businesses a quality, affordable health plan and reduce the need for employers to navigate the health system alone or with a broker. In the Connecticut bill, the Comptroller was granted authority to charge each employer participating in the state plan an administrative fee on a per-member, per-month basis.

Benefits of creating a public option for small businesses:
Helps small businesses lower their operating costs and administrative burden
Better protects small businesses and their employees from rising prices
Makes small businesses more attractive and competitive to the workforce
Improves the quality of health insurance small businesses can offer their workers
Decreases the state's health care costs for its own employees by increasing the buying power of its health plan

There are some concerns with creating a public option for small businesses. Policymakers must consider the implications for competition and costs that result from pulling people out of the marketplace. The most important consideration for this policy proposal is that it likely risks the state's ERISA exemption. ERISA does not apply to a "governmental plan," but folding in private sector small business workers would likely risk this exemption.

A 2005 advisory opinion from the U.S. Department of Labor's (DOL) Office of Regulations and Interpretations offers some insights into how a state's ERISA exemption might be affected by pooling non-state employers with government employees. The DOL's Chief of the Division of Coverage, Reporting & Disclosure advised, "It is well-established that, in the Department's view, participation by a de minimis number of private sector employees will not adversely affect a plan's status as a governmental plan. However, if a benefit arrangement is extended to cover more than a de minimis number of private sector employees, the Department may not consider it a governmental plan under Title I of ERISA" (Canary 2005).

ERISA Section 3(32)
The term "governmental plan" means a plan established or maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

However, the "de minimis" rule does not provide a definitive percentage of private sector employees that can join a public health insurance plan. The percentage of private sector employees referenced in federal advisory opinions ranges from 0.004 percent to 2.15 percent of total plan participants, with most having less than 1 percent.

Similarly, a 2012 DOL advisory opinion related to Connecticut's proposal to pool nonprofit employees into the state health plan stated, "none of our advisory opinions, however, have suggested that the substantial level of private sector participation described in your letter would be permissible in a plan claiming the governmental plan status exemption from ERISA. Rather, and again based on existing guidance, the Department would view the participation of private nonprofit employers in the Connecticut State Plan described in your letter as more than de minimis, and, therefore, such participation would adversely affect the status of the State Plan as governmental under ERISA section 3(32)" (Rees 2012).

Giving up the state's ERISA exemption would create uncertainties regarding the plan administration. Wisconsin likely meets ERISA standards on reporting and benefits design. But larger, complex questions arise from the state giving up its exemption. For example, what does it mean from a legal perspective when someone wants to sue the plan? Could the state get dragged into court by any member, or as part of class action suit as is common among private sector plans? What are fiduciary responsibilities? Who is the fiduciary? How would premiums and the risk pooling change over time? Wisconsin could request a formal opinion from the U.S. DOL regarding a proposal to

open its state employee plan to a targeted set of small business employees. To date, no states have voluntarily given up their ERISA exemption.

Evaluation of Proposal 2: Small Business Option Plan

IMPACT	Small Business Option Plan
Coverage	★★★
Public costs	★
Employer costs	★★★
Administrative Costs	★★★
Feasibility	---

Legend: Poor ---, Fair ★, Good ★★, Very Good ★★★

Coverage

The small business option plan would likely increase the number of small businesses that can offer health insurance to their employees—possibly for the first time—and may attract small businesses currently buying small group coverage. If all small businesses with 50 or fewer employees participated in this plan, nearly 667,000 people would be covered. Nearly 55 percent of Wisconsin private sector businesses (regardless of size) do not offer health insurance to employees (Kaiser Family Foundation 2018). If this trend is consistent for small businesses, almost 367,000 Wisconsinites who currently do not have health insurance through their employer could get coverage through the state plan.

Public costs

The fiscal impact for the small business option plan depends on the additional state employees needed to administer the plan, impact on the state employee and retiree health plan risk pool, and administrative costs associated with ERISA. The Connecticut bill anticipated hiring two state employees to support employers joining the state employee health plan. The Connecticut Office of Fiscal Analysis (OFA) anticipated the total annualized salary and fringe benefit costs associated with two additional positions to be approximately $178,500 (Connecticut Office of Fiscal Analysis 2019). The OFA also cited that there "may be administrative costs related to actuarial services to evaluate a small employer's risk, member support, and outreach for participating entities which may be offset by administrative fees [the Office of the State Comptroller] is allowed to charge starting in FY 21" (Connecticut Office of Fiscal Analysis 2019).

Employer costs

In the small business option plan, premiums paid by private sector employers would be the same as those paid by the state for state employees, inclusive of any premiums state employees pay, except that they may be adjusted for geographic cost-of-living and network differences. The state health plan premium rates for state employees range considerably depending on the type of health plan and insurer ("Health Plan Total Premium Rates for Employees, Continuants & Retirees without Medicare" 2020). In the Connecticut bill, the Comptroller was granted authority to charge each employer participating in the state employee plan an administrative fee calculated on a per-member, per-month basis. If the State of Wisconsin instituted an administrative fee, that would need to be considered in the overall cost to small businesses.

Administrative costs

The small business option plan would involve very little administrative burden for employers. Employers would complete a state application for coverage, and the state would take on most of the burden to process applications, manage benefits, and more. This would significantly reduce employers' need to navigate the health insurance system with a broker, who may sometimes have various incentives.

Feasibility

The small business option plan presents concerns for implementation. Particularly, further investigating how the state's ERISA exemption would be affected to fully understand the implications is a critical first step. Regardless of the status of the State of Wisconsin's ERISA exemption, implementing the small business option plan could involve hiring staff to support qualified employers joining the state employee health plan, which would require time in advance of the launch.

Additional Considerations

The State of Wisconsin could consider several options for reducing the cost burden on small businesses and increasing the number of employees who can afford coverage. The options evaluated in this report focus on policy changes that reduce costs of insurance in the small group market (Policy Proposal 1) and that pool businesses with state employees (Policy Proposal 2). There are additional health policies that could lower health care costs and would work in conjunction with the policies formally assessed in this report. These options are not small business specific, and thus we do not formally assess their strengths, but we provide an overview for further consideration.

First, as of 2015 approximately 129,000 Wisconsinites were uninsured but eligible for Medicaid or CHIP coverage, representing 32 percent of the uninsured population in Wisconsin (Rudowitz, et al. 2016). Many other people without health insurance may be eligible for subsidized coverage on the individual marketplace that they are not accessing. Improving communication and outreach efforts to connect these people with existing programs could reduce the number of people without insurance and lower health care costs.

Second, Wisconsin has not fully expanded Medicaid, an option that would make nearly 82,000 Wisconsinites eligible for government-sponsored coverage and lower health care costs (Wisconsin Department of Health Services 2019). (See Appendix J for more details on expanding Medicaid.)

Third, prescription drugs drive nearly 14 percent of health care spending in the U.S. and have attracted increased legislative attention in recent years at the state and federal level (Conti, Dusetzina and Sachs 2020). Drug pricing is the result of a complex and often opaque supply chain, and lower costs can be achieved through the improved negotiating power that comes from buying larger quantities (Brown & Hunter 2019). States, one of the largest single employers, have a purchasing pool that is well-positioned to negotiate lower prescription drug prices. The National Academy for State Health Policy (NASHP) offers model legislation that allows private insurers to buy into the state employee pool and capitalize on lower costs. (See Appendix K for more details on opening the State of Wisconsin's purchasing pool.)

Key Takeaways

We present two distinct policy options the State of Wisconsin could pursue to increase small business employees' access to health insurance. The options are not mutually exclusive but provide different levers to address major concerns presented by small business owners. Both policy options would be improved by outreach to and communication with the small business community and would work well with other policy proposals aimed at

lowering health care costs in general. These options could be pursued individually, packaged together, or rolled out over time.

Benefit Area #2: Retirement

Wisconsinites are increasingly unprepared for retirement, and while small businesses in the state recognize this, they are often unable to help their employees save for retirement. People are living 15, 20, or even 30 years after retirement, but only 52 percent of families in the United States have retirement savings accounts, with a median value of $60,00. According to Wisconsin's State Treasurer, the average working-age household has less than $3,000 saved for retirement, requiring Wisconsinites to rely more heavily on Social Security benefits (Wisconsinites Aren't Saving Much For Retirement: Treasurer 2019). However, these benefits are modest, averaging just $1,443 per month for the typical Social Security beneficiary in Wisconsin. While Medicare is intended to help cover health costs in retirement, Social Security was not intended to be sufficient to cover other significant expenses in retirement (Gibbons and McGreevy 2019).

An AARP survey of small business owners in Wisconsin revealed that small businesses recognize the importance of offering retirement benefits—both in addressing deficient retirement savings and in attracting and retaining qualified employees. Despite these positive attitudes toward retirement benefits, the majority of small businesses in Wisconsin do not offer retirement savings plans, most commonly because they are too expensive to offer and take too much time to administer and maintain (Choi-Allum 2019). Further, small businesses often disregard offering retirement benefits given the importance and immediate impact health insurance coverage has on small businesses' budgets. A number of Wisconsin small business owners we interviewed suggested that while offering retirement benefits would be great, offering health insurance was a far more pressing concern, and the rising cost of health insurance leaves little budgetary space for investment in retirement policies (Brandon 2013). However, the majority of small business owners surveyed in Wisconsin expressed interest in a state-administered retirement plan (Choi-Allum 2019).

Common Retirement Plans

This report primarily focuses on 401(k) plans and Roth Individual Retirement Account (IRA) plans. Unlike IRA plans, 401(k) plans are typically available only through an employer and usually cannot be opened independently by an individual. They have higher tax-deductible contribution limits per year than IRA plans and allow for employer-matching contributions. IRAs are set up and owned by an individual. 401(k) plans are employer-sponsored. Many small businesses find the cost of setting up and maintaining 401(k) plans to be too expensive for a small number of employees.

IRAs have lower yearly contribution caps and do not allow for employer-matching contributions (Prinzel 2019). However, the SIMPLE (Savings Incentive Match Plans for Employees) IRA plan is an exception. SIMPLE plans have similar investment, distribution, and rollover rules as traditional IRAs. However, the plan provides small employers (the IRS defines small as 100 or fewer employees) with a way to make direct contributions to employee accounts. In SIMPLE plans, the employers must contribute up to 3 percent of the employee's income, and the employee may contribute up to 2 percent. SIMPLE IRAs have lower reporting requirements than qualified retirement plans such as 401(k)s and are easy to set up by adopting Form 5304. SIMPLE plans are treated much like employer-sponsored plans and are subject to ERISA regulations. However, SIMPLE IRA plans are exempt from annual nondiscrimination testing, which is one of the costlier requirements for 401(k) plan sponsors. SIMPLE IRAs do not permit the Roth option—all contributions are pre-tax.[1] (See Appendix L for a comparison of 401(k), IRA and SIMPLE IRA plans.)

[1] Another option is the SEP-IRA for self-employed solo practitioners or partnerships, but are less common among SBs

Current Policy

Wisconsin has not yet adopted any legislation that would incentivize small businesses to offer retirement benefits to employees ("State-Facilitated Retirement Savings Programs for Private Sector Workers" 2018). However, several state legislators have proposed policies to facilitate retirement savings. In 2019, State Representatives Terry Katsma (Oostburg) and Cindi Duchow (Delafield) and several other legislators released a proposal that would create "REvest" (Wisconsin Retirement Investment), a state-administered retirement plan funded through payroll deductions for employees at private businesses. While not a formal piece of legislation, it signaled lawmakers' recognition of Wisconsin's looming retirement challenges for both employers and employees.

Federally, the SECURE (Setting Every Community Up for Retirement Enhancement) Act, signed into law in December 2019, makes wide-ranging changes affecting IRAs, 401(k)s, and other qualified retirement plans and retirement plan beneficiaries. Additionally, the SECURE Act makes it easier for small businesses to band together to offer several employer retirement plans, and it offers tax credits to those businesses that do (O'Brien 2019).

Wisconsin's lack of policies incentivizing small businesses to offer retirement benefits to employees may weaken small businesses' ability to attract and retain workers and could limit employees who want to plan for a secure retirement. This report considers two policy options that can incentivize small businesses to offer retirement benefits on equal footing with larger, national companies: State-sponsored Auto-IRA plans, and Multiple Employer Plans.

Policy Proposal 3: State-Sponsored Auto-IRA Plans

State-sponsored Auto-IRA plans give small businesses an opportunity to enroll employees in IRA plans at a lower cost than an employer-sponsored 401(k) plan. Oregon was the first state to adopt state-sponsored Auto-IRA legislation in 2018, and for the purposes of this analysis we focus on the framework for that program, called OregonSaves.

OregonSaves automatically enrolls employees in state-sponsored Roth IRA plans at a default contribution rate of 5 percent of gross pay. The contribution rate increases automatically by 1 percent each year until the employee is contributing 10 percent of their salary to the account. These are portable IRA accounts in the employee's name, so like any IRA, the employee retains the account even if they separate from the employer (PAi Retirement Team n.d.). Initially, small businesses with 100 or more employees were required to enroll, with mandates for smaller businesses to participate at later dates ("OregonSaves Program Details" 2019). Eventually, OregonSaves will be available to small businesses of all sizes. All defined contribution retirement plans are administered by a third-party "record keeper" to manage retirement accounts and provide access to investment options for employees. For OregonSaves, the record keeper is Ascensus College Savings Recordkeeping Services. The record keeper is accountable to the "plan sponsor," which for OregonSaves is the Oregon State Treasury's Oregon Retirement Savings Board ("OregonSaves Frequently Asked Questions" 2019). For employer-sponsored 401(k) plans, the "plan sponsor" is the employer.

Contributions to OregonSaves are deposited electronically to employees' IRA accounts from their paychecks. This means employers in OregonSaves must coordinate payroll administration for sending payments to multiple accounts each pay period. For new employees and at the start of the program, employers must enroll their employees in the Auto-IRA plans unless the employee opts out. Employers must register and set up an account within 30 days of receiving an invitation to participate. They then submit a payroll list of employees to OregonSaves or pay a payroll representative to do this. After the employer account is set up, the employer has to submit OregonSaves contributions every pay period and update the employee list when workers enter and leave the program.

Because workers' hours and pay may fluctuate, managing private employee information and variable payroll amounts can be an administrative burden for small businesses. Maintaining proper records, managing contributions, and avoiding data breeches also open the employer to some risk of potential legal liability. While OregonSaves does not provide official estimates of the time per week, employers can expect the setup to take several hours, and maintenance of accounts can take up to one hour per week ("Facilitating OregonSaves" n.d.). (See Appendix M for a detailed breakdown of the information and steps needed for small businesses owners to enroll.)

While small businesses do not pay an initial fee to participate in OregonSaves, they often incur costs as a result of participating. For example, many small businesses do not have internal human resources staff and may have to pay accountants or consultants to shoulder the administrative burden required for participation. Additionally, these administrative burdens cost small business owners time that could be used to invest in their small business. The state also incurs costs to set up an Auto-IRA plan. However, the OregonSaves program is designed to "pay back" the state's initial start-up investment by charging fees to employees based on their account balance. Currently, these fees are 1 percent of the balance (a $100,000 account would pay $1,000 per year in fees), which includes fees to the record keeper and the plan sponsor[2]. Therefore, the state can recapture the initial start-up costs over a few years.

Evaluation of Proposal 3: State-Sponsored Auto-IRA

IMPACT	Auto-IRA Plan
Coverage	★★★
Public costs	★★
Employer costs	★★
Administrative Costs	★
Feasibility	★

Legend: Poor ---, Fair ★, Good ★★, Very Good ★★★

Coverage

State-sponsored Auto-IRA plans expand benefit access to employers and employees across the state. The Auto-IRA plan's mandatory participation may be extended to only certain businesses (for example, only employers with 20 or more employees are required to participate). While the state should carefully consider this plan's enactment and when to make participation mandatory for various sizes of employers, more employers and employees will have access to these benefits as the plan rolls out.

Public Costs

The OregonSaves fees for maintaining the Roth IRA are not charged to the employer; they are collected from the employees ("OregonSaves Program Details" 2019). Oregon appropriated $2 million in state funds to set up the plan ("State-Facilitated Retirement Savings Programs: A Snapshot of Program Design Features" 2020). However, the employee-paid fees are designed to eventually pay back these funds.

[2] A 1% administration fee is relatively high. By comparison the State of Wisconsin deferred compensation plan charges $100 annually for an account of $100,000.

Employer Costs

While this cost may be lower than offering 401(k) plans, and there is no stated fee for participating, employers incur time costs and legal risks.

Administrative Costs

Like all employer-provided benefits, Auto-IRA plans place some administrative burden on small business owners.

Feasibility

Wisconsin would need to designate a plan sponsor and then contract for a record keeper through a public procurement process. The sponsor agency will need resources and staff to oversee the record keeper.

Policy Proposal 4: Multiple Employer Plans

The state-sponsored open Multiple Employer Plan (MEP) is a 401(k) qualified retirement savings plan that allows multiple, unrelated businesses to offer their employees one common retirement plan. The 2019 SECURE Act streamlines reporting and accounting requirements to make open MEPs a more cost-effective option for small businesses. Vermont and Massachusetts are the only two states that have state-sponsored open MEPs, although both are in the early stages, and they vary greatly. In Massachusetts, the statewide plan is available only to nonprofit employers with 20 or fewer employees. Vermont's proposed plan—the Green Mountain Secure Retirement Plan—is open to self-employed people and small businesses with fewer than 50 employees (Gibbons and McGreevy 2019). As such, this analysis focuses on Vermont's plan even though details are not finalized, and it is yet to be implemented.

	Auto-IRA	**Multiple Employer Plans**
Maximum allowed contributions (yearly)	$6,000	$19,500
Allow employer matching?	No	Yes
Mandatory employer participation	Yes	No
Mandatory employee participation	No	No
Typical expense incurred by employer	Medium	High

Table 2: **Summary of Plan Types**

If an employer chooses to participate in the Green Mountain Security Retirement plan, all of its employees will be automatically enrolled. However, the plan allows employees to opt-out of participation ("Green Mountain Secure Retirement Plan," n.d.).

The Green Mountain Secure Retirement Plan should reduce administrative burden on small employers. The state will contract with a third-party record keeper to administer the employees' accounts, ensure ERISA compliance, and serve as custodian. The state sponsors the plans and has fiduciary duty on behalf of the plan participants. The participating MEP employers are responsible only for signing up and managing payroll contributions, like OregonSaves ("Green Mountain Secure Retirement Plan," n.d.).

However, costs for administering the MEP are borne by the small business owner, who needs to pay start-up costs. The MEP could charge account fees to cover these costs over time. Like all employer-based plans, if an employer elects to match employee contributions, then the employer must bear that cost as well. Vermont is investigating ways the state can subsidize participation for small businesses to encourage them to participate.

Evaluation of Proposal 4: Multiple Employer Plans

IMPACT	Multiple Employer Plan
Coverage	★★
Public costs	★★★
Employer costs	★
Administrative Costs	★
Feasibility	★★

Legend: Poor ---, Fair ★, Good ★★, Very Good ★★★

Coverage

Employer participation is not mandatory; therefore, it is difficult to say how many businesses will participate. Without an awareness campaign or incentive, there is a chance that many employers will not take advantage of this state program due to lack of awareness or apathetic attitudes toward the program.

Public Costs

MEPs do not necessarily require an appropriation on behalf of the State Legislature. The plans can be structured so that small business owners would pay the administrative fees required to maintain these accounts.

Employer Costs

MEPs like Vermont's are paid for by the small business owners participating in the plan. Federal income tax credits for small businesses, including enhanced credits under the SECURE Act, are available to help mitigate these costs.

Administrative Costs

MEPs' administrative burden is likely similar to the Auto-IRA, although employers may choose to also offer matching contributions.

Feasibility

The administrative costs of a state-sponsored MEP would be very similar to the Auto-IRA plan. The MEP would designate a board, including some small business representatives, as the plan sponsor, and then contract with a third-party financial record keeper.

Additional Considerations

Several states have experimented with marketplace retirement plans. These plans connect existing financial services providers with employers for administering retirement savings programs. Marketplace plans offer employers various retirement plan options, including 401(k)s and SIMPLE, Roth, and Traditional IRAs (Gibbons and McGreevy 2019). A marketplace plan operates through a state-run website allowing employers to compare plans that have been pre-approved by the administering board. Administrative fees are collected from participating employees and are typically capped at 1 percent (Gibbons and McGreevy 2019).

Marketplace plans have experienced low employer participation. The marketplace websites do little to ease employers' administrative burden related to comparing, choosing, and setting up retirement plans. Furthermore,

some states that have implemented marketplace systems have used them as a stepping-stone in transitioning to a state-sponsored IRA model.

Key Takeaways

We present two policy proposals for the Legislature's consideration that would help Wisconsin small businesses offer competitive retirement benefits to employees. While the Auto-IRA plan has already demonstrated success in other states, the Wisconsin Legislature should observe Vermont's successes and lessons in MEP implementation.

Benefit Area #3: Paid Leave

Paid leave can have long-lasting positive effects for employers and employees. Several evaluations suggest that paid leave programs increase short- and long-term workforce participation, increase labor force participation for new mothers, and increase the likelihood that workers can return to their original employer after taking leave (Joesch 1997; Berger, Hill, and Waldfogel 2005; Rossin-Slater, Ruhm, and Waldfogel 2013; Baum and Ruhm 2016; Winegarden and Bracy 1995). In addition, paid sick leave can help promote a healthy workforce where employees are not obligated to go to work when sick and risk infecting others, thus leading to increased productivity and lower employee turnover. For many small businesses, their employees are like family, and they want to take care of them to ensure a healthy and productive work environment.

Paid Leave Definitions
Paid leave: replacing wages for employees while they are not working
Sick leave: work absence for the purposes of medical self-care or caring for a sick child
Paid sick leave: generally, for every X hours worked, employee earns X hours of paid sick leave
Family and Medical Leave (FML): leave from work to care for self or a family member
Family and Medical Leave Act (FMLA): federal law allowing workers to take 12 weeks of unpaid, job-protected leave, small businesses exempt
Paid Family and Medical Leave (PFML): replacing wages for employees taking FML
Paid Family and Medical Leave Insurance (PFMLI): Publicly funded insurance program for PFML

However, small business owners face barriers to offering paid sick leave and Paid Family and Medical Leave (PFML), chief among them budgetary constraints. Employees taking leave must be replaced with a temporary employee—often costing more than 1.5 times a regular employee's hourly rate—or be covered by another employee within the business, often resulting in overtime. Some states with paid sick leave laws do not mandate that small businesses provide sick leave, to avoid overburdening them. As a result, only 64 percent of workers in companies with 49 or fewer employees have access to paid sick leave, compared with 91 percent of workers in companies with 500 or more employees (Desilver 2020).

Further, paid sick leave remains a benefit more commonly enjoyed by those earning higher wages, with only 51 percent of workers earning $13.80 per hour or less having access (Desilver 2020). That number drops to only 31 percent among those earning less than $10.80 per hour (Desilver 2020). When business operations are normal, some small businesses may have financial resources to pay their workers to stay home from work due to an illness. However, those workers who cannot afford unpaid leave when sick or to take care of a family member are the ones with the least access to paid leave.

Over the course of the year, the economic damage from COVID-19 has exposed the challenges from not having robust paid leave policies. While the global pandemic has spurred the mobilization of various funds, tools, and other resources to help support businesses and their employees in these uncertain times, it has highlighted the

need for more thorough exploration of paid leave policies to ensure businesses are better equipped to handle unforeseen emergency situations like COVID-19.

Current Policy

The United States is one of only eight countries in the world that does not offer PFML and one of only three members of the Organization for Economic Coordination and Development (OECD) that does not provide universal access to paid sick leave (Messersmith, Patel, and Crawford 2018).

The Family and Medical Leave Act (FMLA) allows workers to keep their job when they take leave; however, FMLA has no employer requirements to provide paid leave benefits and no federal mechanisms exist to provide paid leave to employees. Further, FMLA protects only those employees who have worked in their job continuously for 12 months and work in businesses with 50 employees or more. To be clear, small businesses with fewer than 50 employees are not statutorily required to keep an employee's job for taking family or medical leave. Although this may mitigate the potential negative impacts on small businesses when an employee takes long-term leave, not providing PFML benefits puts small businesses at a disadvantage in recruiting and retaining talented workers.

In the absence of federal actions on paid leave, many states have taken the initiative to implement mandatory paid sick leave policies and various forms of PFML. (See Appendix N and Appendix O for details on leave policies by state.) This patchwork of paid leave policies has led to a high degree of inequality within the U.S. labor market.

12 States Mandate Paid Sick Leave

Twelve states and Washington, D.C. have laws mandating that employers offer paid sick leave. Connecticut was the first to do so in 2011, while Maine's sick leave law does not take effect until 2021 (NCSL 2020). Chicago, New York City, Philadelphia, and several cities in California have enacted their own paid sick leave laws as well. Connecticut, Michigan, and Nevada exempt small businesses with 50 or fewer employees, while Maryland, Massachusetts, and Rhode Island set lower exemption thresholds (15, 11, and 18 employees, respectively). Wisconsin does not require companies to offer paid sick leave to employees.

8 States have PFML

Eight states and Washington, D.C. have a form of PFML: California, New Jersey, Rhode Island, New York, Connecticut, Washington state, Oregon, and Massachusetts. (Hawaii has a generous statewide temporary disability insurance policy, but no PFML.) In Rhode Island, California, and Connecticut, the program is funded exclusively through payroll tax deductions and does not require employer contribution. In New Jersey, New York, Washington, Massachusetts, and Oregon, PFML programs are primarily funded through employee payroll taxes, but they also require some employers to contribute (A Better Balance 2020). In Oregon, businesses with more than 25 employees are required to contribute to their PFML program. Oregon's policy provides insight into how a policy can level the playing field by making larger companies contribute a portion to the PFML program while exempting small businesses from doing so.

COVID-19 Actions

On March 18, 2020, the Emergency Family First Coronavirus Response Act (EFFCRA) was signed into law (Lowey 2020). The bill includes the Emergency Paid Sick Leave Act (EPSLA) which provides eligible employees with up to 80 hours of fully-paid time off (Lowey 2020). The bill applies to businesses with fewer than 500 employees and ensures time off to self-quarantine, seek a diagnosis or preventive care, or receive treatment for COVID-19. Employers are expected to initially cover the cost of paid sick leave but will be fully reimbursed, including wages paid and employer contribution to employee health insurance, within three months. The reimbursement will come via a refundable tax credit that counts against their payroll tax. The DOL has the

authority to exempt businesses with fewer than 50 employees from complying with the EPSLA if doing so would jeopardize the viability of the business. EPSLA will expire December 31, 2020. Prior to H.R. 6201, there were no federal legal requirements for paid sick leave. The EFFCRA sets an important precedent for sick leave legislation in which the government reimburses businesses for the cost of providing paid sick leave. While this is a reactionary measure to the effects of the COVID-19 pandemic, it could provide a stepping stone toward federal action on universal paid sick leave in the future.

Policy Proposal 5: Paid Sick Leave Options

Paid sick leave policies across the nation typically follow the same format, where employees accrue one hour of paid sick leave for a set number of hours worked. The amount of paid sick leave an employee can accrue is typically capped at a maximum number of hours or days per year. Some jurisdictions also allow unused leave to be carried over in the next year. For example, employees in Chicago may carry over half of their unused paid sick leave (up to 20 hours). Other variations arise in the types of businesses that must follow state paid sick leave mandates. Some states exempt small businesses from participation. Other states operate on a sliding scale, where businesses with fewer employees can increase the hours required to accrue an hour of paid sick leave, and cap leave at fewer total hours. (See Appendix N for a full breakdown of state paid sick leave policies.)

Wisconsin could enact paid sick leave legislation that imposes a mandate on all public and private employers, wherein employees accrue one hour of paid sick leave for every 30 hours worked. This represents the average paid sick leave law in the U.S. and would provide a baseline leave policy for businesses. The mandatory nature would impose significant costs, primarily on small businesses. The choice then would be to exempt small businesses from the mandate and provide some kind of incentive for them to voluntarily provide paid sick leave to their employees.

As an option to incentivize participation and help alleviate the cost burden on small business owners, we outline a tax credit structure to reimburse employers with 50 or fewer employees for the cost of providing paid sick leave. This tax credit would be available for the first five years after a business with 50 or fewer employees begins offering paid sick leave and would then phase out. This credit, inspired by the paid sick leave reimbursement in the EFFCRA, would help ease the immediate burden of providing paid sick leave for small businesses. We propose a sliding scale based on the number of employees to determine the reimbursement rate. In our proposal, businesses with fewer employees are reimbursed for a larger portion of paid sick leave expenses than those with closer to 50 employees. The idea behind this sliding scale is the relative burden placed on small businesses when a worker is out sick. A business with 10 employees may have a harder time supporting their operational needs when a worker is out sick than a business with 40 employees. (See Appendix P for approximate cost estimates for businesses and the state, assuming maximum take-up among employers and employees.)

Similar to health insurance, these policies can work jointly or stand alone. Wisconsin could forgo the paid sick leave mandate and simply enact an incentive for small businesses to offer paid sick leave or vice versa. The accrual rate could also be adjusted so that employees accrue leave faster or slower. We present a mix-and-match, adjustable framework that can be fine-tuned to suit the needs of Wisconsin small businesses.

Evaluation of Proposal 5: Paid Sick Leave Options

IMPACT	Mandate, No Tax Credit	Mandate, with Tax Credit	No Mandate, with Tax Credit
Coverage	★★★	★★★	★
Public costs	★★★	★	★
Employer costs	--	★★	★★
Administrative Costs	★★	★★	★★
Feasibility	★★	★★	★

Legend: Poor ---, Fair ★, Good ★★, Very Good ★★★

Coverage

The level of benefits depends primarily on whether paid sick leave is implemented as a mandate for small employers or remains optional but is incentivized. In absence of a mandate, we expect more small employers to participate in paid sick leave programs if provided a tax incentive to do so.

Public Costs

Providing employers with a subsidy to provide paid sick leave through state corporate income tax credits would require a moderate state investment. Reimbursing small businesses for a certain percentage of their paid sick leave costs would result in a reduction of tax revenue collected.

As outlined in Appendix P, the maximum state expenditures if 100 percent of businesses offered paid sick leave and 100 percent of employees took paid sick leave would be $190 million per year. This is based on a sliding reimbursement scale of 60 percent for businesses with fewer than 10 employees, 40 percent for those with 10 to 24 employees, and 20 percent for businesses with 25 to 49 employees. In other words, these are the maximum possible costs for the state if every small business provides sick leave and every employee takes all 40 hours of sick time per year. The total estimated state costs at 90 percent and 75 percent take-up rates (at the same reimbursement levels) are $85.6 million and $71.4 million, respectively. These appraisals likely overestimate the state cost because they assume all workers are full time and therefore entitled to the maximum 40 hours of paid sick leave per year.

Employer Costs

A tax incentive would reduce small businesses' costs of offering paid sick leave. The savings for paid sick leave will be a percentage of the paid sick leave costs depending on the size of the business. Paid sick leave also comes with costs for replacing a worker who is out sick. These costs include potential overtime for a covering colleague or, in some cases, a temporary employee.

Administrative Costs

Administering paid sick leave will require some additional burden on small business owners, such as tracking the accrual and use of employees' paid sick leave as well as updating time-tracking or payroll systems.

Feasibility

Implementation of paid sick leave utilizes existing mechanisms. Policy administration for state government and businesses would look no different than current applications for various tax credits at tax filing time. One example is a "Paid Sick Leave Credit" applied to small businesses under Income/Franchise Tax Incentives.

Policy Proposal 6: Paid Family and Medical Leave (PFML)

As of 2020, eight states offer some form of PFML, which allows workers to take paid leave to deal with personal illness or injury, care for a new child or sick family member, or adjust family life due to a spouse's military deployment. However, small businesses often struggle to find affordable options, and only 9 percent of workers in businesses with 100 or fewer employees have access to paid family leave, compared with 23 percent of workers in businesses with 500 or more employees (Main Street Alliance 2019). Whether a small business wants to offer PFML for talent recruitment and retention, to reduce turnover, or to provide an important safety net for their employees, they stand at a significant disadvantage when compared with larger businesses.

Wisconsin does not have Paid Family and Medical Leave Insurance (PFMLI), but this is a policy option for the state to pursue with the goal of supporting small businesses and their employees. PFMLI would be funded entirely through an employee payroll tax administered by the State of Wisconsin. The rate would ultimately be determined by the Wisconsin Department of Workforce Development to ensure benefit payouts are fully funded.

The levers through which PFMLI can be adjusted include: 1) The percentage of employee payroll deduction; 2) the wage replacement rate and structure; 3) the coverage period. Based on a similar report by La Follette School students in 2019, "Analyzing Paid Family and Medical Leave Insurance in Wisconsin: Possible Costs and Effects," parameters for a family leave policy would include:

- Administration through the Wisconsin Department of Workforce Development (DWD)
    - Payroll deduction collected in the same manner as unemployment benefits
    - 0.767 percent employee payroll tax deduction (employee contributions only)
- Payout structure
    - Based on the employee's income as a percentage of the state's median income
    - 90 percent wage replacement up to 50 percent of the state's average weekly wage ($492), and 50 percent wage replacement on all earnings thereafter
    - $1,000/week maximum benefit payout (to be adjusted yearly based on Consumer Price Index)
    - 12 weeks maximum for any covered employee
- Coverage
    - Birth or adoption
    - Caregiving of an immediate family member with a medical condition requiring assistance
    - Self-care for a serious medical condition
    - Family member of a service member called to active duty in a foreign country
    - Caregiving for a child due to an unforeseen school or child care facility closure

Source: Dederich, et al 2019

Evaluation of Proposal 6: Paid Family and Medical Leave Insurance

IMPACT	PFMLI
Coverage	★★★
Public costs	★
Employer costs	★★★
Administrative Costs	★★★
Feasibility	★★

Legend: Poor ---, Fair ★, Good ★★, Very Good ★★★

Coverage

The mandatory nature of PFMLI will extend paid family leave to a broad swath of the Wisconsin workforce who do not currently have access. PFMLI is designed to be accessible for all businesses, regardless of how large or small. When the policy is fully implemented, there would be no heterogeneity within the small business landscape where some small businesses offer PFML benefits and others do not. This policy provides expansive access to benefits.

Public Costs

The annual program cost for PFMLI in Wisconsin is estimated at $971 million. Based on this cost, the recommended payroll deduction for all Wisconsin workers is 0.767 percent (Dederich et al. 2019). PFMLI must be universal and mandatory to be successful. In other words, for the state to fund PFML, it must establish a mandatory statewide insurance program, PFMLI. For reference, a 0.767 payroll deduction will cost a worker in Wisconsin with an annual salary of $30,000 approximately $4.42 per week.

Employer Costs

There are no direct costs to small businesses with PFMLI. The only other cost to consider for paid leave is the worker replacement costs when an employee takes leave and needs to be replaced by a colleague or a temporary employee. However, the literature suggests when a small business offers paid leave, they increase employee retention and lower turnover, resulting in long-term cost reductions and increased likelihood of survivability (Messersmith, Patel, and Crawford 2018). A recent study found that the cost of replacing an employee in a low-paying, high-turnover job (earning less than $30,000 per year) is 16 percent of that worker's annual wages; for employees in mid-range positions ($30,000 to $50,000 per year), the cost of replacement is 20 percent of annual salary; and for high-paying positions (more than $50,000 per year), the cost of replacement is up to 213 percent of annual salary (Boushey and Glynn 2012).

Administrative Costs

PFMLI will be administered by the DWD and will result in little to no additional burden on small business owners.

Feasibility

PFMLI will use the existing mechanisms under Wisconsin's unemployment insurance for implementation. Administration for the state government and businesses would look no different than what is currently in operation. Mechanisms for funding, administering, and paying benefits for PFML exist under the unemployment insurance structure.

Key Takeaways

The paid sick leave and PFML policies we have put forth act as a guide. Both contain variables that can be adjusted based on the state's needs and abilities. However, we strongly recommend that Wisconsin take steps to implement paid leave policies. The economic and workforce benefits are substantial, including reduced turnover and presenteeism. And, paid leave is an integral component of supporting the health and well-being of employees and their loved ones.

Summary of Recommendations

This report describes a range of policies for consideration to help small businesses provide benefits to their employees.

We propose improving upon the Small Business Health Options Program (SHOP) either by revitalizing Wisconsin's participation in the Federally-Facilitated Marketplace (FFM) or by transitioning to a State-Based Marketplace (SBM). In either case, improving the marketplace where employers and employees can purchase health insurance will bolster competition and ultimately lower costs in providing health insurance for small businesses.

We propose creating a public option plan for small businesses where small businesses can buy into the state employee health insurance pool. The state already has a health insurance benefit plan for state and local agency employees. If small businesses were permitted access to this plan, they would be able to pool their risk with public employees. Ultimately, this will reduce costs for small businesses in providing health insurance to their employees. However, the risk to Wisconsin's ERISA exemption must be investigated further.

We propose both State-Sponsored Auto-IRA plans and MEPs for the Legislature's consideration. While Auto-IRA plans have demonstrated success in several states, MEP plans demonstrate exciting possibilities and legislators should observe Vermont as they move forward with this plan's implementation.

We propose reimbursing small businesses for a portion of their paid sick leave costs. Some states have required employers to offer paid sick leave. We do not explicitly recommend this but recognize it may be an option to level the benefits across all employers. If Wisconsin chooses to mandate paid sick leave, then reimbursements to small businesses will be even more important and higher reimbursement rates may be warranted.

We propose enacting a PFMLI program. We use the 2019 La Follette School of Public Affairs report to provide specific steps for implementation and administration of a successful PFMLI program (Dederich et al. 2019).

Conclusion

Wisconsin small businesses are the foundation of the state economy. Families rely on small businesses for income as well as health, retirement, and leave benefits. Yet, these employers are disadvantaged compared with larger businesses when it comes to offering benefits to employees—they cannot reach the scale to be able to provide cost-effective health, retirement, or leave benefit programs.

COVID-19 underscores the importance of small businesses for the economy and families. The current pandemic shows the vulnerability of small businesses and the precarity of employees. The policies outlined in this report would not solve the current economic challenges imposed by COVID-19.

Even under normal circumstances, none of policy options in this report provides a silver bullet for health, retirement, or leave benefits. Instead, they provide policy levers to address the concerns small businesses have been voicing for years. Wisconsin policymakers can acknowledge the contributions of small businesses and offer innovative policies that not only improve their likelihood of survival in times of emergency, but also their ability to attract and retain a talented workforce in times of economic stability. When Wisconsin small businesses thrive, Wisconsin's economy, and Wisconsin's families, all thrive, too.

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Appendix A: Small Business Industries in Wisconsin

Top 4 Small Business Industries in Wisconsin by # of Employees

	# of Employees	% of workers in that industry
Accommodation & Food Services	110,000	45%
Health Care & Social Assistance	76,000	19%
Retail Trade	74,000	24%
Manufacturing	64,000	14%

Note: due to the COVID-19 pandemic, some of these sectors may be experiencing substantial unemployment

Source: Kaiser Family Foundation 2019b; 2020

Appendix B: Health Plan Type and ERISA

Many of the proposals we reviewed would affect employers differently depending on whether the health plan they offer is fully insured or self-funded, which is closely related to the size of their business. Fully insured plans are more traditional, where the employer contracts with an insurance company who assumes responsibility for the cost of the employee's medical care and is paid a monthly premium in return. These plans are subject to all state insurance laws and are regulated by the Office of the Commissioner of Insurance (OCI). A self-funded plan is functionally identical for the employee, but the benefits are actually administered by the employer themselves, who assumes the responsibility for the employee's health costs. Because larger employers have enough employees to pool risk, these plans are financially feasible and can lead to cost savings if employees have few health claims. For smaller employers, this is rarely a possibility. Only 14 percent of covered workers employed by small businesses had self-funded plans, compared with 80 percent of covered workers employed by large businesses (Kaiser Family Foundation 2019b; 2020).

This is where ERISA's preemption clause becomes important. While ERISA supersedes state laws that directly and indirectly regulate employer sponsored health plans, it does exempt state insurance laws from this preemption, giving states the authority to pass laws that will apply to fully insured plans. Although many employers in self-funded plans contract with third parties to administer and pay for these benefits, essentially functioning as an insurance company, ERISA does not allow the state to call something insurance for the purpose of regulation, and these plans remain exempt from state insurance laws (Gluck, Hoffman, and Jacobson 2017; NASHP 2009).

The result is that ERISA exempts private self-funded plans, although not public, from adhering to state insurance laws, including mandated benefits and consumer protection regulations. Instead, these plans are subject to only federal law, while fully insured plans must adhere to federal and state requirements. For the employees, the type of plan makes a difference. Covered workers at businesses that self-fund have lower average contribution rates—around 26 percent—for family coverage, compared with the 37 percent contributed by those at businesses who are fully insured (Kaiser Family Foundation 2019a).

Appendix C: Small Business Health Care Tax Credit

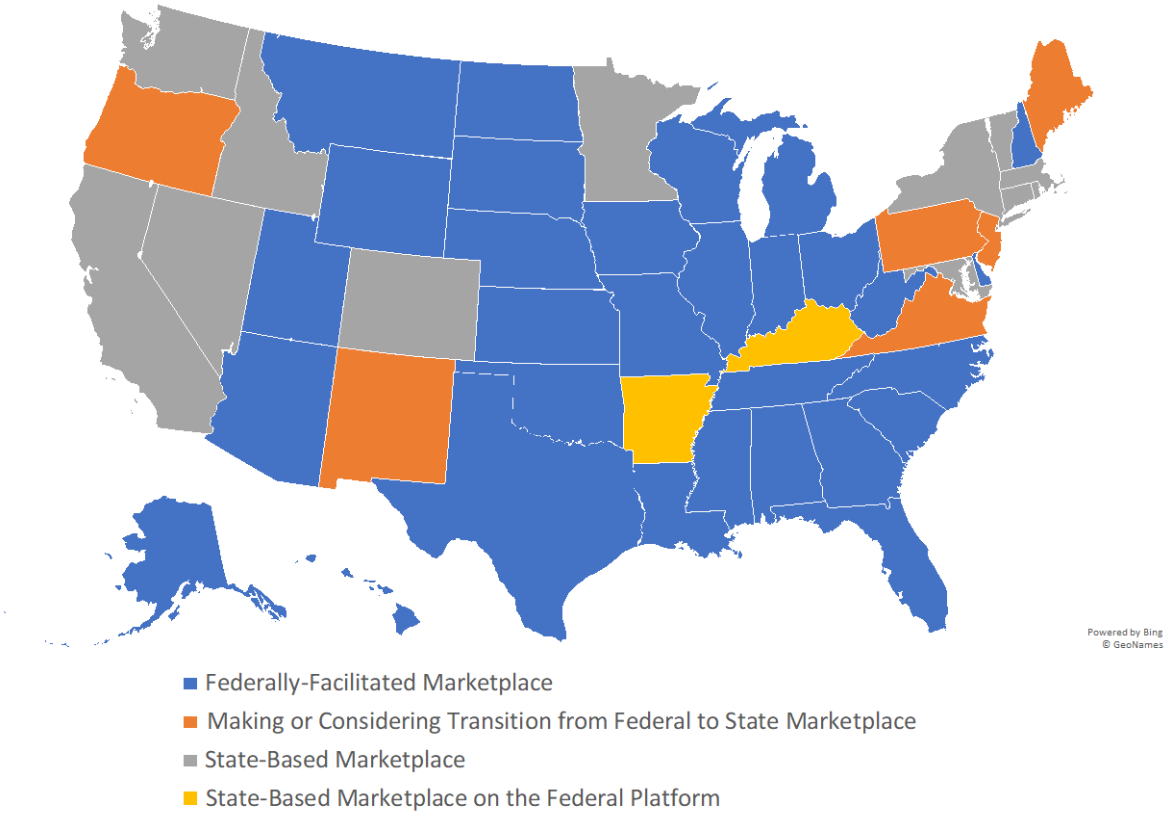
Small business owners who offer their employees coverage through the SHOP marketplace may be eligible to claim a tax credit. Small businesses are eligible (Internal Revenue Service 2020) if they:

- Have fewer than 25 full-time equivalent employees
- Pay average wages of less than $50,000 per year per full-time equivalent (indexed annually for inflation beginning in 2014)
- Offer a qualified health plan to its employees through the SHOP marketplace
- Pay at least 50 percent of the cost of employee-only health insurance coverage for each employee

The maximum credit is:

- 50 percent of premiums paid for small business employers and
- 35 percent of premiums paid for small tax-exempt employers
- The amount of the credit works on a sliding scale based on employer size
- The credit is available to eligible employers for two consecutive taxable years

Appendix D: State Health Insurance Marketplace Types



Sources: State Health Insurance Marketplace Types 2020, Lueck 2020. Map developed by the authors based on Marketplace documents and communication between the states and Consumer Information and Insurance Oversight (CCIIO) by the Kaiser Family Foundation.

Appendix E: Key Differences Between ACA Marketplace Models for Health Care Plans

Model	State conducts health plan management*	State assumes responsibility for outreach, marketing, and consumer assistance	State runs online platform for eligibility and enrollment
State-Based Marketplace (SBM)	Yes	Yes	No
State-Based Marketplace on the Federal Platform (SBM-FP)	Yes	Yes	No
Federally-Facilitated Marketplace, State Performs Plan Management	Yes	No	No
Federally-Facilitated Marketplace (FFM)	No	No	No

*Plan management includes marketplace plan certification, oversight, and monitoring
Analysis by Rachel Schwab and JoAnn Volk
Source: Schwab and Volk 2019

Appendix F: State-Based Marketplace SHOP Models

State	Online platform or direct enrollment
Arkansas	Currently no carriers offer plans on the SHOP marketplace
California	Online platform
Colorado	Direct enrollment
Connecticut	Online platform
District of Columbia	Online platform
Idaho	Direct enrollment
Kentucky	Currently no carriers offer plans on the SHOP marketplace (a)
Maryland	Direct enrollment (b)
Massachusetts	Online platform
Minnesota	Currently no carriers offer plans on the SHOP marketplace
Nevada	Currently no carriers offer plans on the SHOP marketplace
New Mexico	Online platform
New York	Direct enrollment
Oregon	Direct enrollment
Rhode Island	Online platform
Vermont	Direct enrollment
Washington	Currently no carriers offer plans on the SHOP marketplace

Notes: Table does not include states that recently transitioned to a state-based marketplace (PA and NJ). Online platform = state operates a website where small business owners and employees can enroll in coverage. Direct enrollment = small business owners and employees enroll directly through insurers or brokers; some states that operate their SHOP through direct enrollment may offer tools on their marketplace website, such as plan comparison tools, while others may approve employer applications before employers and employees can complete enrollment through direct-enrollment entities.

(a) Kentucky transitioned SHOP operations to the federal government in 2017.

(b) Maryland is transitioning its SHOP marketplace to an online platform

Source: Schwab, Giovannelli, and Lucia 2020

Appendix G: Authority Over Key Marketplace Functions, by Model

Marketplace Function	State-Based Marketplace	State-Based Marketplace on the Federal Platform	Federally-Facilitated Marketplace
Plan Management			
Set/collect assessments	State	Both	Federal
Qualified health plan review and certification	State	State	Both
Outreach and Marketing			
Navigator program	State	State	Federal
Advertising	State	State	Federal
Agents/brokers	State	State	Federal
IT/Operations			
Integrated eligibility system	State	Federal	Federal
Application	State	Federal	Federal
Online tools (e.g., calculators)	State	Federal	Federal
Call center	State	Federal	Federal
Set special enrollment periods	Both	Federal	Federal

Source: NASHP 2019

Appendix H: Advice for transitioning to an SBM

- Set targets for increased enrollment that span all state health coverage programs.
- Make sure the SBM is prepared to at least match the FFM's user experience and identify improvements the SBM can make right away.
- Prioritize significant investments in marketing, outreach, and enrollment assistance.
- Commit to a "no wrong door" eligibility and enrollment system, in which people who apply for health coverage are easily enrolled in the appropriate program—whether that is an SBM plan, Medicaid, or another state program—and make immediate strides toward "no wrong door" when the SBM launches.
- Ensure that SBM spending will be sufficient to provide high-quality services to residents and achieve the state's other goals for the transition.
- Protect consumers from subpar health plans and problematic web-broker and insurer marketing practices.
- Leverage the establishment of an SBM to advance broader policy changes, such as additional subsidies to make coverage more affordable.

Source: Lueck 2020

Appendix I: Health Plan Total Premium Rates for Employees, Continuants & Retirees without Medicare, Plan Year 2020

Health Plan	With Dental Individual / Family	Without Dental Individual / Family
Access Plan by WEA Trust	$1,571 / $3,894	$1,541 / $3,818
Dean Health Insurance	$731 / $1,793	$700/ $1,717
Dean Health Insurance-Prevea360	$793 / $1,950	$763/ $1,875
Group Health Cooperative of Eau Claire	$902 / $2,221	$872 / $2,145
Group Health Cooperative of South Central Wisconsin	$694 / $1,703	$664 / $1,627
HealthPartners Health Plan	$837 / $2,060	$807 / $1,985
Medical Associates Health Plan	$750 / $1,842	$720 / $1,766
MercyCare Health Plan	$738 / $1,812	$708 / $1,736
Network Health	$852 / $2,096	$822 / $2,021
Quartz - Community	$834 / $2,051	$804 / $1,976
Quartz - UW Health	$722 / $1,771	$692 / $1,695
Robin with HealthPartners Health Plan	$837 / $2,060	$807 / $1,985
State Maintenance Plan (SMP)1 by WEA Trust	$1,011 / $2,494	$981 / $2,419
WEA Trust - East	$857 / $2,108	$827 / $2,033
WEA Trust West - Chippewa Valley	$875 / $2,155	$845 / $2,080
WEA Trust West - Mayo Clinic Health System	$875 / $2,155	$845 / $2,079

Source: Buttle, Wonnenberg, and Simaan 2019

Appendix J: Medicaid Expansion

Wisconsin initially took a partial Medicaid expansion, expanding BadgerCare Plus access to people making up to 100 percent of the federal poverty line (FPL). Taking the full expansion and expanding eligibility to people making up to 138 percent of the FPL would make an estimated 82,000 Wisconsinites eligible for Medicaid, half of whom are currently estimated to be uninsured (Associated Press 2019). Taking the full expansion would also qualify the state for $1 billion in additional funding from the federal government, which is obligated to cover 90 percent of the costs of expansion. Governor Tony Evers has expressed strong support for Medicaid expansion, and the issue has recently made it to the legislative agenda, but the Legislature has been vocally opposed (White 2019).

A Kids Forward analysis shows that expanding Medicaid would save Wisconsin approximately $190 million annually while increasing the number of insured people (Gregory, Peacock, and Parke-Sutherland 2017). It is likely that expanding Medicaid would also lead to a decrease in premiums within the private market for individual coverage. People who earn between 100 percent and 138 percent of the FPL tend to be less healthy on average relative to people with higher incomes. Moving people from the private insurance risk pool to the public insurance pool would make the private pool less costly to insure. Over time, this should lead to a decrease in premiums. Neighboring counties in Minnesota, Michigan, and Illinois—full expansion states—saw premiums for private coverage that were 19 percent lower than Wisconsin from 2014 to 2018 (Sen and DeLeire 2019). An analysis comparing states that expanded Medicaid with those that did not also found indirect financial effects, because expansion states saw a reduction in unpaid bills and debt sent to collections (Hu et al. 2018).

Appendix K: Prescription Drug Purchasing Pool

Prescription drug prices, one of the 10 essential health benefits that the ACA mandates be included in all compliant plans, are unique within the health care landscape. Lower costs come not from pooling risk, but from purchasing larger quantities. Pharmacy Benefits Managers (PBMs0 are an intermediary in the prescription drug supply chain that play a large role in negotiating the discounts and rebates that make bulk purchasing more affordable, although many of their dealings lack transparency (Rosenburg 2019). The State of Wisconsin currently contracts with Navitus Health Solutions to purchase prescription drugs in bulk for all state employee health plans, which are administered by the Department of Employee Trust Funds (Wisconsin Department of Employee Trust Funds 2020).

The state is one of the largest single employers, and the state employee pool is large and has considerable market share to negotiate lower prices. As additional employees grow the size of the pool, current users will also benefit from a price reduction. The National Academy for State Health Policy offers a framework through which Wisconsin could open their purchasing pool to include private insurers, offering them access to low-cost prescription drugs. The State of Connecticut adopted a similar model in 2012 under public act 11-58, opening up its state pool to non-state public and nonprofit employers. The State of Connecticut's plan is administered by the PBM CVS/Caremark and overseen by the Department of the Comptroller (State of Connecticut 2013).

While grouping public and private employees together can risk a health plan's government status, this pooling model avoids risking the state plan's ERISA exemption by creating a private employee pool that is administratively separate from the public employee pool. While the contracts may be administratively separate, the pools could share staff and negotiate as one large group to take advantage of shared infrastructure, expertise, and cost savings from bulk purchasing.

In creating this pool, Wisconsin would have three main considerations. First, the state must decide who can buy into the pool. For example, the pool could be open to self-funded employers, insurance providers in the small group market, insurance providers in the individual/non-group health insurance market, and/or individuals without coverage. The plan would provide uninsured people with a discount card, which they would use to buy prescription drugs out-of-pocket at the lower negotiated price (Brown and Hunter 2019). Second, Wisconsin must appoint the administrators of the pool, likely ETF. Finally, the state could consider assuming the role of PBM, which can improve the purchasing pool's strength. Relatively few PBMs operate in each state, so if Wisconsin chooses to enter the PBM market, this would foster more competition and help keep costs low (Brown and Hunter 2019).

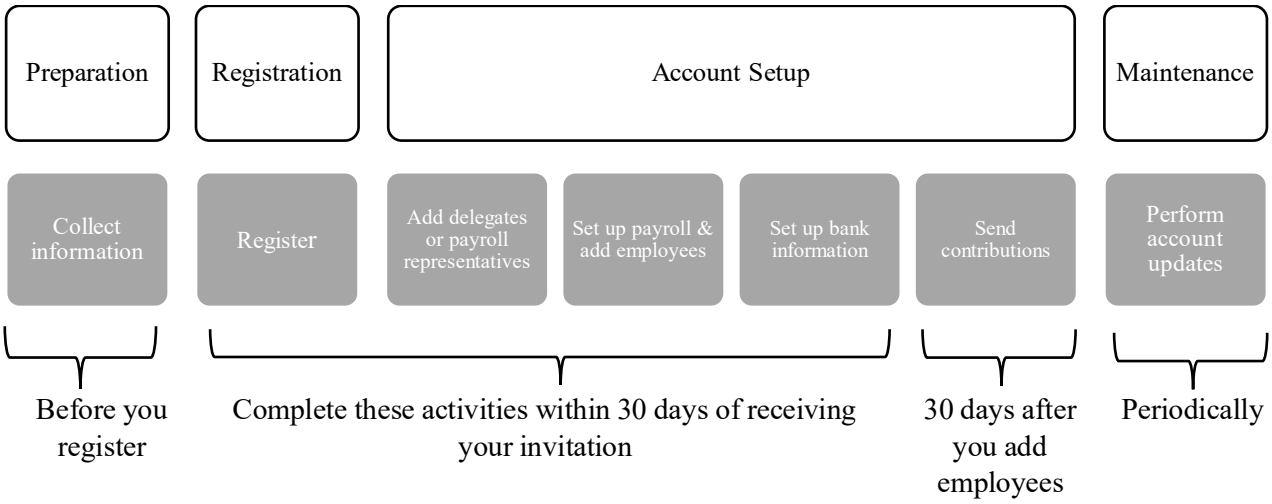
Appendix L: Key Differences Between 401(k) and IRA Accounts

The following chart breaks down some key differences between 401(k) accounts and IRA accounts, generally.

	401(k)	**IRA**	**SIMPLE IRA**
Plan Type	Employer-Based	Individual	Employer-Based
Individual contribution limits (2020)	$19,500	$6,500	$13,500
Allowed additional contributions above limit for those age 50+ (2020)	$6,000	$1,000	$3,000
Employer match	Yes, if offered by plan	No	Yes, if offered by plan
Contribution deductibility	Fully deductible (pretax)	Based on income, filing status, and if covered under employer	Not deductible for employees
Traditional or Roth	Yes, if offered	Yes	Traditional
Tax treatment of distribution	Tax-deferred (pretax) or tax-free (after-tax or Roth)	Tax-deferred (pretax) or tax-free (after-tax or Roth)	Tax-deferred (pretax) or tax-free (after-tax)
Availability	Through employer	Through bank or financial services provider	Through employer
Ownership	Vesting period may be required for employer contributions	Immediate	Immediate
Loans from account	Yes, if offered	No	No

Source: Gibbons and McGreevy 2019

Appendix M: Employer Actions for Auto-IRA Plans



This table is provided courtesy of OregonSaves ("Facilitating OregonSaves" n.d.). Before employers enroll, they must collect eligible employees' information. This includes Federal Employer Identification or Tax Identification Number (EIN/TIN), and the employees' SSN/ITIN, name, birthdate, physical address, mailing address, phone, and email. Then, the employer must notify their payroll representative, if applicable, of the employer's participation in the Auto-IRA. Finally, the employees must prepare personal contribution details. The information needed from the employer is the employees' SSN/ITIN or External Payroll ID (if applicable), name, and contribution amount ("Facilitating OregonSaves" n.d.).

The account must be set up within 30 days of the employer receiving the invitation to participate in the program. First, the employer must add a delegate or an external payroll vendor to manage the business's payroll activities. Becaues small business owners often serve as their own payroll supervisors, this is optional. From there, the employer must create a payroll list with all employees. This is necessary so that the employees can be notified about the program and enrolled automatically if they do not choose to opt out. The employer must then add bank information and initial payroll contributions for employees ("Facilitating OregonSaves" n.d.).

Finally, the employer must maintain the account. As a note, IRA accounts do not allow employer matching contributions to a retirement savings account. Maintenance duties a small business owner could expect to perform include processing payroll contributions, updating employee contribution rates with your payroll software and provider, and adding new employees as they become eligible or marking employees as inactive when they leave or are terminated. This amount of preparation, setup, and ongoing maintenance can be burdensome on small businesses that do not have human resources or payroll staff, especially for small businesses where the owner is the only administrator of the account. Although OregonSaves does not provide official estimates of time per week, employers can expect the setup to take a couple hours, and maintenance of accounts can range from no time to an hour or so a week ("Facilitating OregonSaves" n.d.).

Appendix N: State Paid Sick Leave Policies (as of May 2020)

State	**Covered Employers**	**Sick Leave Accrual**	**Roll-over?**
Arizona	Private-sector employers and local governments	One hour of sick leave for every 30 hours worked. Maximum of 40 hours per year.	Yes; employers do not have to increase the maximum paid sick time allowed per year
California	Public and private employers	One hour of sick leave for every 30 hours worked. Employers may cap total paid sick leave at six days per year.	Yes; capped at 48 hours
Connecticut	Employers with more than 50 employees	One hour of sick leave for every 40 hours worked. Maximum of 40 hours per year.	Yes; can carry over up to 40 hours, but cannot use more than 40 hours per year
D.C.	Public and private	Employers with 100+ employees: one hour of leave for every 30 hours worked. Maximum of seven days per year; 5-99 employees & tipped restaurant employees: one hour of leave for every 43 hours worked. Maximum of five days per year; 1-24 employees: one hour of leave for every 87 hours worked. Maximum of three days per year.	Yes
Maryland	Public and private employers with more than 15 employees	One hour of leave for every 30 hours worked. Maximum of 40 hours per year.	Yes; total accrued time cannot exceed 64 hours
Massachusetts	Public (not federal) and private employers with 11 or more employees	One hour of sick leave for every 30 hours worked. Maximum of 40 hours per year.	Yes, unless employers provide paid sick leave in a lump sum at the beginning of the year
Michigan	Public (not federal) and private employers with 50 or more employees	One hour of sick leave for every 35 hours worked. Maximum of 40 hours per year.	Yes, unless employers provide paid sick leave in a lump sum at the beginning of the year

State	**Covered Employers**	**Sick Leave Accrual**	**Roll-over?**
Nevada	Private employers with 50 or more employees	0.01923 hours of sick leave for each hour worked (approx. 1:52) Employers can limit leave to 40 hours per year.	Yes, up to 40 hours
New Jersey	Public and private employers	One hour of sick leave for every 30 hours worked. Maximum of 40 hours per year.	Yes, up to 40 hours
Oregon	Public and private employers		
Rhode Island	Public and private employers with 18 or more employees in previous years' two highest employment quarters	One hour of sick leave for every 35 hours worked. Maximum of 40 hours per year.	Yes, or employers can payout accrued sick time
Vermont	Public and private employers (New employers exempt until one year after hiring their first employee)	One hour of sick leave for every 52 hours worked. Employers can cap leave at 40 hours per year.	Yes, unless employers provide paid sick leave in a lump sum at the beginning of the year
Washington	Public and private employers	One hour of sick leave for every 40 hours worked. Employees must be allowed to carry over up to 40 hours of unused sick leave per year.	Yes, up to 40 hours

Note: In many cases, part-time workers who receive paid sick leave hours are capped at the average number of hours worked in a week.

Source: NCSL 2020 and state sick leave statutes

Appendix O: State PFML Comparisons (as of January 2020)

State	How is the program funded?	What percentage of wages do workers receive?	For how long can a worker receive benefits?
California	Workers cover the full cost of both Disability Insurance and Paid Family Leave. Both programs are funded by a single payroll deduction, currently set at 1.0% of wages. This deduction does not apply to wages above $122,909/year.	Between 60% and 70% of a worker's average weekly wage, depending on their income.[3]	Own health: Up to 52 weeks for any period of disability. Family leave: Up to 6 weeks in a 12-month period. California does not specify a cumulative limit. Starting July 1, 2020, workers will be able to take up to 8 weeks of family leave.
Connecticut	Workers cover the full cost of all leave. Workers contribute a percentage of wages set by the state, which will not exceed 0.5% of wages. Contributions do not apply to wages above the Social Security contribution base. Contributions begin between January 1 and February 1, 2021.	95% of a worker's average weekly wage up to an amount equal to 40 times the state minimum wage and 60% of a worker's average weekly wage above an amount equal to 40 times the state minimum wage.	Own health: Up to 12 weeks in a 12- month period. Family leave: Up to 12 weeks in a 12-month period. Total: Up to 12 weeks in a 12-month period.[4]
Massachusetts	Workers and employers share the cost of medical leave. Workers cover the full cost of family leave. Employers can withhold up to 40% of the premium from workers' wages; employers cover the remaining cost. Employers with fewer than 25 employees in MA are not required to pay the employer portion.	80% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage	Own health: Up to 20 weeks in any benefit year. Family leave: Up to 12 weeks in any benefit year. Total: Up to 26 weeks in any benefit year.[5]

[3] Very low-wage workers receive a fixed benefit amount set by statute, which may result in higher wage replacement rates.
[4] Workers with certain pregnancy-related health needs may receive up to an additional 2 weeks of benefits, which can be combined with other uses up to a total of 14 weeks in a 12-month period.
[5] Military caregivers can receive up to 26 weeks of family leave in any benefit year.

State	How is the program funded?	What percentage of wages do workers receive?	For how long can a worker receive benefits?
Massachusetts (continued)	Initially, the total premium for family and medical leave will be 0.75% of wages. Premiums do not apply to wages above the Social Security contribution base.		
New Jersey	Workers and employers share the cost of Temporary Disability Insurance. Workers contribute 0.26% of their wages. Employers contribute a percentage of workers' wages ranging from 0.10% to 0.75%. The percentage contribution for employees does not apply to a worker's wages above $134,900/year; the percentage contribution for employers does not apply to a worker's wages above $35,300/year. Workers cover the full cost of Family Leave Insurance. The program is funded by a payroll deduction, currently set at 0.16% of wages. This deduction does not apply to wages above $134,900/year.[6]	2/3 of a worker's average weekly wage. Starting July 1, 2020, workers will receive 85% of their average weekly wage.	Own health: Up to 26 weeks for any period of disability. Family leave: Up to 6 weeks in a 12-month period. New Jersey does not specify a cumulative limit. Starting July 1, 2020, workers will be able to take up to 12 weeks of family leave.
New York	Workers and employers share the cost of Temporary Disability Insurance. Employers can withhold 0.5% of workers' wages to pay for coverage, up to $0.60/week; employers cover the remaining cost. Workers cover the full cost of Paid Family Leave. The program is funded by a	Own health: 50% of a worker's average weekly wage. Family leave: 60% of a worker's average weekly wage. When the program is fully phased in in 2021, workers will receive 67% of their	Own health: Up to 26 weeks for any period of disability or in any 52-week period. Family leave: Up to 10 weeks in a 52-week period. Total: Up to 26 weeks in a 52-week period. When the program is fully phased in in 2021, workers

[6] These percentages are based on participation in the state plan. If an employer chooses a private plan, employees can only be required to contribute as much as they would have contributed to the state plan; these employees can only be required to contribute if a majority of employees agree to the private plan before it goes into effect. See https://myleavebenefits.nj.gov/labor/myleavebenefits/employer/index.shtml?open=PrivatePlan

State	How is the program funded?	What percentage of wages do workers receive?	For how long can a worker receive benefits?
New York (continued)	payroll deduction, currently set at 0.270% of wages. This deduction does not apply to wages above an average of $1,401.17/ week.	average weekly wage for family leave.	will be able to take up to 12 weeks of family leave.
Oregon	Workers and employers share the costs of all leave. Employers can withhold up to 60% of the contribution from workers' wages; employers cover the remaining costs. Employers with fewer than 25 employees are not required to pay the employer contribution.[26] The total premium will not exceed 1% of wages. Premiums do not apply to wages above $132,900/year. Contributions begin January 1, 2022.	100% of a worker's average weekly wage up to an amount equal to 65% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 65% of the statewide average weekly wage	Own health: Up to 12 weeks in any benefit year. Family leave: Up to 12 weeks in any benefit year Safe leave: Up to 12 weeks in any benefit year. Total: Up to 12 weeks in any benefit year.[7]
Rhode Island	Workers cover the full cost of both temporary disability insurance (TDI) and temporary caregiver insurance (TCI). Both programs are funded by a single payroll deduction, currently set at 1.3% of wages. This deduction does not apply to wages above $72,300/year.	About 60% of a worker's average weekly wage (formally, 4.62% of a worker's wages in the highest earning quarter of the base year)	Own health: Up to 30 weeks in a 52-week period. Family leave: Up to 4 weeks in a 52- week period. Total: Up to 30 weeks in a 52-week period.
Washington	Workers and employers share the cost of medical leave. Employers can withhold up to 45% of the premium from workers' wages; employers cover the remaining cost. Employers with fewer than 50 employees are not required to	90% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage	Own health: Up to 12 weeks in a 52-week period. Family leave: Up to 12 weeks in a 52-week period. Total: Up to 16 weeks in a 52-week period.

[7] Workers with certain pregnancy and child-birth-related health needs (including lactation) may receive up to an additional 2 weeks of benefits, which can be combined with other uses up to a total of 14 weeks in any benefit year.

State	How is the program funded?	What percentage of wages do workers receive?	For how long can a worker receive benefits?
Washington (continued)	pay the employer portion.[8] Initially, the total premium for medical leave will be about 0.27% of wages. Workers cover the full cost of family leave. Initially, the premium will be about 0.13% of wages.[9] Premiums do not apply to wages above the Social Security contribution base.		
Washington, D.C.	Employers cover the full cost of universal paid leave. Employers contribute 0.62% of the wages of covered employees.	90% of a worker's average weekly wage up to an amount equal to 40 times 150% of the D.C. minimum wage; 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage	Own health: Up to 2 weeks in a 52-week period. Caring for a seriously ill relative: Up to 6 weeks in a 52-week period. Bonding with a new child: Up to 8 weeks in a 52-week period. Total: Up to 8 weeks in a 52-week period.

Source: A Better Balance 2020

[8] Employers with 50to 150 employees who must pay all of the premiums or employers with fewer than 50 employees who choose to cover the employee portion of the premium may apply to receive certain grants from the state.

[9] The initial total premium for both family and medical leave will be set at 0.4% of employees' wages, one-third of which shall be associated with family leave and two-thirds associated with medical leave. The state will set the premium in subsequent years based on a formula set by statute. In addition, the state will set the maximum wages subject to premium contributions based on the maximum wages subject to Social Security taxation. Employers may choose to cover all or part of employees' share of the premium for family and/or medical leave.

Appendix P: Approximate Costs to Government and Businesses for Paid Sick Leave

Size of Business	<10 employees	10-25 employees	25-49 employees
Total # of Employees	224,873	235,591	206,405
Payroll	$ 8.3 billion	$ 8.3 billion	$ 7.9 billion
Avg Weekly Payroll per business (40 hours of sick pay)	$ 8,300	$ 55,100	$ 94,000

	60% reimbursement (<10 employees)	40% reimbursement (10-24 employees)	20% reimbursement (25-49 employees)	Total
Per-business expenditures after state reimbursement	$3,300	$33,000	$75,000	
State expenditures 100% take-up	$95.7 million	$64.2 million	$30.4 million	**$190.3 million**
90% take-up	$86.1 million	$57.4 million	$27.4 million	**$171.3 million**
75% take-up	$71.7 million	$47.8 million	$20.5 million	**$142.7 million**

	30% reimbursement (<10 employees)	20% reimbursement (10-24 employees)	10% reimbursement (25-49 employees)	Total
Per-business expenditures after state reimbursement	$5,800	$44,100	$84,400	
State expenditures 100% take-up	$ 47.8 million	$ 32.1 million	$ 15.2 million	**$95.2 million**
90% take-up	$ 43 million	$ 28.9 million	$ 13.7 million	**$85.6 million**
75% take-up	$ 35.8 million	$ 24.1 million	$ 11.4 million	**$71.4 million**

Appendix Q: Interview Protocol and List of Interviewees

Project Description/General Introduction:

Our five-person team of graduate students from the La Follette School of Public Affairs at UW–Madison, was asked by a Wisconsin State Assembly member to research avenues the state government could use to help small businesses hire and keep qualified workers. We are focusing on how companies with 50 or fewer employees provide benefits, specifically retirement accounts, health and dental insurance, and paid family and medical leave. To recruit talent, these small businesses must offer comprehensive packages to compete with larger corporations but often pay more to provide the same level of benefits. By researching and talking with people like you, we will develop recommendations of ways the state can encourage these businesses to provide benefits through incentives, development of new programs, promotion of existing programs or the removal of existing barriers to provision.

Interviews with Small Businesses:

Intro: We are interested in your perspective on three main items: 1) attracting and retaining employees, 2) whether turnover is a problem for you, and 3) how financially feasible it is for your company to provide competitive benefits packages. The problem as seen by legislators may be different from what you deal with on a day-to-day basis, and your feedback will be invaluable as we try to understand the scope of this issue.

Questions:

1. Can you give me a brief background on your business/organization?
    a. How many employees do you have?
2. Do you currently offer benefits to your employees?
    a. If so, what do you offer?
    b. How are these benefits provided?
3. How able are you to find qualified employees with your current salary and benefit offerings?
    a. (if necessary) How would you define a qualified employee?
    b. Can you elaborate on how time-consuming the hiring process is for your company?
4. Would you consider employee turnover to be a problem you struggle with?
    a. If so, what do you feel are the main reasons employees leave your company?
    b. Who do you consider your biggest competition in terms of recruiting talent?
5. Are you aware of any support offered by the state to employers with regards to benefits?
    a. If so, what have you heard of?
    b. Do you use any of these?
        i. If not, why not?
6. What could encourage you to offer benefits/offer more comprehensive benefits to your employees?

Health insurance

Intro: We are seeking your expertise on this issue to get a better sense of the options small businesses have when providing health insurance to their employees and how the state government could facilitate this process.

Questions:

1. Are there any health insurance options you are aware of that are aimed specifically at small businesses?
2. Are there health insurance options other states are pursuing that you believe could be beneficial in Wisconsin?
3. Are there health insurance options you are aware of that you do NOT believe would be beneficial for Wisconsin to pursue?

Paid family/medical leave

Intro: We are seeking your expertise on this issue to get a better sense of the options small businesses have in providing paid leave to their employees and how the state government could facilitate this process.

Questions:

1. Are there any paid family/medical leave options you are aware of that are aimed specifically at small businesses?
2. Are there leave options other states are pursuing that you believe could be beneficial in Wisconsin?
3. Are there leave options you are aware of that you do NOT believe would be beneficial for Wisconsin to pursue?

Retirement

Intro: We are seeking your expertise on this issue to get a better sense of the options small businesses have in providing retirement accounts for their employees and how the state government could facilitate this process.

Questions:

1. Are there any retirement options you are aware of that are aimed specifically at small businesses?
2. Are there retirement options other states are pursuing that you believe could be beneficial in Wisconsin?
3. Are there retirement options you are aware of that you do NOT believe would be beneficial for Wisconsin to pursue?

Closing (all):

1. Can you think of anyone else we should talk to regarding this topic?
2. Is there anything else you would like to add?

Thank you so much for your time. We'll leave you with our contact information if you think of anything else that may be relevant or have any follow-up questions regarding this project.

List of Interviewees

Contact	Interview Date	Affiliation
Lisa Lamkins	3/9/2020	AARP
Geri Agilpay	2/19/2020	Small Business Majority
Sadie Tuescher	2/26/2020	Wisconsin Health Insurance Advocate
Adam Barr	2/14/2020	Greater Madison Chamber of Commerce
Donna Friedsam	2/26/2020	UW Institute for Research on Poverty
Laura Dresser	2/28/2020	Center on Wisconsin Strategy
Karen Timberlake	3/3/2020	Michael Best Strategies
Vince Ruffolo	3/6/2020	Superior Industrial Coating
Kevin Irvin	3/6/2020	Frank's Diner