WORKFORCE DEVELOPMENT

Budget Summary						FTE Position Summary				
		Governor		2021-23 Change Over Base Year Doubled			Governor		2022-23 Over 2020-21	
Fund	2020-21 Adjusted Base	2021-22	2022-23	Amount	%	2020-21	2021-22	2022-23	Number	%
GPR	$53,865,800	$156,131,400	$78,681,500	$127,081,300	118.0%	150.82	179.53	202.53	51.71	34.3%
FED	206,065,400	212,833,000	207,852,500	8,554,700	2.1	1,265.18	1,181.97	1,176.97	- 88.21	- 7.0
PR	78,519,600	78,071,100	78,090,500	- 877,600	- 0.6	218.25	215.65	215.65	- 2.60	- 1.2
SEG	25,938,600	31,166,500	31,166,500	10,455,800	20.2	72.80	72.80	72.80	0.00	0.0
TOTAL	$364,389,400	$478,202,000	$395,791,000	$145,214,200	19.9%	1,707.05	1,649.95	1,667.95	- 39.10	- 2.3%

Budget Change Items

Departmentwide and Worker's Compensation

1. STANDARD BUDGET ADJUSTMENTS

	Funding	Positions
GPR	$694,800	0.00
FED	2,121,900	- 95.00
PR	- 930,800	0.00
SEG	455,800	0.00
Total	$2,341,700	- 95.00

Governor: Adjust the agency's base budget by $347,400 GPR, -$465,400 PR, and $227,900 SEG annually, and $2,539,200 FED and -90.00 FED positions in 2021-22, and -$417,300 FED and -95.00 positions in 2022-23. The adjustments are for: (a) turnover reduction (-$247,100 GPR, -$1,803,900 FED, -$463,500 PR, -$96,600 SEG annually); (b) removal of noncontinuing elements from the base (-$2,611,900 FED and -90.00 FED positions beginning in 2021-22 and -$5,568,400 FED and -95.00 FED positions in 2022-23); (c) full funding of continuing position salaries and fringe benefits ($286,300 GPR, $7,145,000 FED, $266,300 PR, and $322,600 SEG annually); (d) overtime ($153,800 PR annually); (e) full funding of lease and directed moves costs ($308,200 GPR, -$190,000 FED, -$422,000 PR, and $1,900 SEG annually); and (f) minor transfers within the same alpha appropriation.

Minor transfers include: (a) within DWD's vocational rehabilitation GPR general program operations appropriation, transfer $20,000 annually from state Title 1-B aids to state program aids; (b) within DWD's vocational rehabilitation FED program aids appropriation, reallocate $600,000 annually from aids to individuals and organizations to special purpose funding; and (c) within DWD's worker's compensation contracts SEG appropriation, transfer all monies from the operations subprogram to the worker's compensation subprogram.

2. INCREASE VOCATIONAL REHABILITATION RESOURCES

	Funding	Positions
GPR	$929,300	0.21
FED	3,432,600	0.79
Total	$4,361,900	1.00

Governor: Adjust funding by $16,400 GPR and $60,600 FED in 2021-22, and $912,900 GPR and $3,372,000 FED in 2022-23, and 0.21 GPR positions and 0.79 FED positions annually for the vocational rehabilitation program. Under current law, the Division of Vocational Rehabilitation's primary funding source is Title 1-B federal funds, which requires a match of 21.3% state funds to 78.7% federal funds. Of the amounts provided under the bill, $720,600 GPR would be allocated to fully fund the state match to draw the additional $2,661,700 FED that is expected to be received from federal sources for DVR services. According to DOA, the additional 1.0 position would provide counseling and referral services for individuals already employed or considering employment at subminimum wage levels, and assist with coordination of supported employment services for consumers with significant disabilities.

3. WORKER'S COMPENSATION -- SUPPLEMENTAL BENEFIT APPROPRIATION

SEG	$10,000,000

Governor: Create an annual appropriation under DWD to provide reimbursement to insurance carriers paying supplemental benefits from the Department's segregated worker's compensation (WC) operations fund and provide $5,000,000 annually. Specify that all moneys received from an existing special assessment on insurers be credited to the new appropriation account. The bill would not increase revenues to the Department but would provide additional budget authority to the new appropriation account.

2015 Act 55 terminated reimbursements from the Department's segregated work injury supplemental benefits fund (WISBF) for certain supplemental benefits paid by insurers for persons with permanent total disability or continuous temporary total disability. Instead, Act 55 provided that an insurer paying supplemental benefits would be entitled to annual reimbursement from the WC operations fund. Under Act 55, annual reimbursements to insurers are supported by WC operations fund revenues from a special assessment on insurers. Assessments from insurers of up to $5,000,000 in each calendar year must be deposited in the WC operations fund and used to provide reimbursement to insurers paying supplemental benefits. Act 55 authorized DWD to collect and pay out a maximum of $5,000,000 per year from the WC operations fund for supplemental benefit payments, but did not provide the additional budget authority needed to make those additional payments. Rather, DWD has been depositing assessments in the WISBF and paying reimbursements from that fund, as the WISBF's sole appropriation allows for payment of all moneys received.

In addition to creating a new WC operations fund appropriation, the bill would transfer the unencumbered balance of the amount collected from the special assessment on insurers from DWD's WISBF appropriation to the newly-created special assessment insurer reimbursements appropriation. The transfer would be required on the bill's effective date.

[Bill Sections: 428, 429, 1602, and 9250(1)]

4. WORKER'S COMPENSATION -- UNINSURED EMPLOYERS FUND

Governor: Modify the sum-sufficient SEG appropriation for uninsured employers fund payments to a continuing appropriation for all monies received from sources identified under current law. The uninsured employers fund is funded through penalties assessed against employers for illegally operating a business without worker's compensation insurance as well as reimbursement payments from uninsured employers for benefit payments made by the fund. The Executive Budget Book indicates that modification to the uninsured employers fund appropriation is needed for DWD to properly account for continuing segregated revenue balances and expenditures.

[Bill Section: 430]

5. WORKER'S COMPENSATION -- ELECTRONIC TRANSMISSION OF RECORDS AND PAYMENTS

Governor: Specify that DWD, the Division of Hearings and Appeals (DHA) in DOA, and the Labor and Industry Review Commission (LIRC), may send certain information, forms, notices, and documents regarding worker's compensation actions electronically, rather than exclusively by mail.

Specify that unless written consent is received from the interested party to receive electronic delivery, DWD, DHA, or LIRC may not electronically deliver any information, notice, filing, or other document required to be provided under worker's compensation law.

Specify that, with proper consent from the recipient, all of the following types of communication, where applicable, may be transmitted electronically by DWD, DHA or LIRC: (a) copy of hearing application; (b) notice of hearing; (c) notice of denial of an application for license to appear at WC hearings, or notice of revocation of a license; (d) order to pay award of compensation; (e) copy of hearing examiner's decision awarding or denying compensation; (f) notice of reversal or modification of hearing examiner's decision; (g) copy of summons for judicial review of a LIRC decision; (h) request for information from employer to determine preference for claims under bankruptcy; (i) notice of surcharge for falsifying or failure to keep records; (j) medical examination reports pertaining to toxic or hazardous substances or conditions; (k) notice of demand for payment (with unique verifiable signature); (l) fine for delinquent payment (with unique verifiable signature); (m) service of fine for delinquent payment (with electronic delivery receipt); and (n) citations (with unique verifiable signature of defendant).

Provide that an employer may make reports via secured electronic delivery for required reports to DWD on the employer's number of employees, the nature of their work, and the employer's worker's compensation insurance coverage policy of the employer.

Deposit Method for Worker's Compensation Awards. Provide that if a claimant requests payment by check under worker's compensation law, the insurer or self-insured employer must make the payment by check. Under current law, the claimant may request the insurer or self-insured employer to pay any compensation due to the claimant by depositing the payment directly

into an account maintained by the claimant at a financial institution. If the insurer or self-insured employer agrees to the request, the insurer or self-insured employer may deposit the payment by direct deposit, electronic funds transfer, or any other money transfer technique approved by DWD or DOA.

Require that a worker's compensation award to an employer be paid by electronic money transfer to the employer. Specify that payment may be made by direct deposit, electronic funds transfer, automated clearinghouse transfer, or any other secure electronic money transfer procedure. Under the bill, the payment must be made by other means acceptable to the employer and payer if an employer: (a) cannot receive electronic payment; (b) elects to not receive electronic payments; or (c) if the insurer, self-insured employer, or third-party payer does not have the capacity to issue electronic payments.

[Bill Sections: 1586 thru 1597, 1601, 1603 thru 1605, and 1613]

6. WORKER'S COMPENSATION -- UNINSURED EMPLOYER PENALTIES

Governor: Increase penalties on uninsured employers for multiple violations of certain existing worker's compensation requirements.

Failure to Provide Mandatory Coverage. Increase penalty payments for subsequent violations by an employer who is required to provide worker's compensation insurance coverage.

Under current law, DWD is required to assess a penalty against an employer who requires an employee to pay for any part of worker's compensation insurance or who fails to provide mandatory worker's compensation insurance coverage. An employer who fails to comply with these requirements for 10 days or less must forfeit not less than $100 nor more than $1,000. An employer who fails to comply with these requirements for 11 days or more must forfeit not less than $10 nor more than $100 for each day of such a violation.

Require that, for each act occurring after the date of the third violation, the employer be assessed a penalty in the amount of $3,000 for each act, or three times the amount of the premium that would have been payable, whichever is greater.

Require that, for each act occurring after the date of the fourth violation, the employer be assessed a penalty in the amount of $4,000 for each act, or four times the amount of the premium that would have been payable, whichever is greater.

Additionally, specify the penalty for a violation of 10 days or fewer applies to acts occurring before the date of the first determination of violation. Specify the penalty for violation of 11 days or more applies to acts occurring after the date of the first or second determination of violation.

False Information or Failure to Notify. Increase penalty payments for subsequent violations, after the date of the first violation, for an employer who provides false information to an employee or fails to notify a contractor that the coverage has been canceled.

Under current law, an employer is required to forfeit not less than $100 and not more than

$1,000 if the employer does any of the following: (a) gives false information about worker's compensation coverage to their employees, the Department or any other person who contracts with the employer and who requests evidence of coverage in relation to that contract, or (b) fails to notify a person who contracts with the employer that the worker's compensation coverage in relation to that contract has been canceled.

Require that, for each act occurring after the date of the third violation, an employer who is required to provide worker's compensation insurance coverage must forfeit $3,000 per violation.

Require that, for each act occurring after the date of the fourth violation, an employer who is required to provide worker's compensation insurance coverage must forfeit $4,000 per violation.

[Bill Sections: 1606 thru 1612]

7. WORKER'S COMPENSATION -- SUBSTANTIAL FAULT

Governor: Repeal the provision that an employer is not liable for worker's compensation benefits if an employee is suspended or terminated due to substantial fault.

Under worker's compensation law, temporary disability, during which compensation is payable for loss of earnings, includes the period during which an employee could return to a restricted type of work during the healing period, unless the employee's employment been suspended or terminated due to substantial fault by the employee connected with the employee's work. The bill would repeal this provision.

Under current law, the definition of "substantial fault" includes acts or omissions of an employee over which the employee exercised reasonable control and that violate the employer's reasonable requirements. This definition would be repealed and is addressed under a separate item.

Specify that the effective date of the provision is January 2, 2022.

[Bill Sections: 1598, 1742, and 9450(5)]

8. ACCOUNT RECONCILIATION

GPR	$975,900

Governor: Provide $975,900 in 2021-22 to the Department's general program operations annual appropriation. The Executive Budget Book states that the provided funding would be to correct an equity overdraft related to errors from fiscal years 1993-94 and 1997-98.

Agencies use a clearing accounts to expend funds temporarily, and then allocate those expenditures to the correct appropriation accounts prior to closing a fiscal year. According to DOA, an error was realized by which some balances in DWD's clearing account were not transferred to the corresponding appropriations. DOA states that these issues were recently discovered through the use of the STAR finance system's more advanced ability to track equity balances. Implementation of the system, commonly known as STAR (for State Transforming Agency Resources), began in 2015-16.

9. HUMAN RESOURCES SHARED SERVICES POSITION ADJUSTMENT

	Positions
PR	- 0.60

Governor: Delete 0.60 position and reallocate $52,000 annually from salary and fringe benefits to supplies and services within the Department's administrative services appropriation, to pay assessments to DOA for services provided.

Under 2017 Act 59, human resources positions and functions were transferred from most executive branch agencies to the Division of Personnel Management in DOA. The modification above would provide for the transfer of 0.6 position that continues to perform personnel management functions in DWD to DOA. [See "Administration -- Personnel Management."]

10. FEDERAL APPROPRIATION REESTIMATES

FED	$2,440,300

Governor: Adjust funding by $3,914,100 in 2021-22 and -$1,473,800 in 2022-23 to align federal expenditure authority with the amount of revenue that DWD estimates will be deposited into appropriations. The adjustments are as follows:

DWD Federal Appropriations Reestimates

Appropriation	2021-22	2022-23
Workforce investment and assistance	-$8,000,000	-$8,000,000
Unemployment administration	11,914,100	6,526,200
Total	$3,914,100	-$1,473,800

11. WORK OPPORTUNITY TAX CREDIT

Governor: Create a nonrefundable income and franchise tax credit for taxable years beginning after December 31, 2020, called the work opportunity tax credit (WOTC), modeled on a federal tax credit of the same name. [See "General Fund Taxes -- Income and Franchise Taxes."]

The WOTC is a federal tax credit available to employers for hiring individuals from certain targeted groups who have faced significant barriers to employment. Currently, DWD is responsible for the administration of the federal WOTC, including the certification process described below, promoting the program to employers, and reporting program data to the U.S. Department of Labor (USDOL). DWD receives grant funding from USDOL to administer the program.

Employment and Training

1. WORKER CONNECTION PILOT PROGRAM

	Funding	Positions
GPR	$9,709,700	48.00

Governor: Create a continuing GPR appropriation for administration, grants, and contracts associated with a worker connection program and provide $2,226,700 and 25.0 project positions in 2021-22 and $7,483,000 and 48.0 project positions in 2022-23. The administration indicates project positions would have two-year terms.

Require DWD to establish and administer a worker connection program that helps participants prepare for and enter jobs in high-growth employment sectors by pairing participants with achievement coaches who guide participants through the workforce system and partner with employers in high-growth employment sectors. Require the Department to create rules to administer the program.

The administration indicates one-time funding and positions were intended to be provided to create a new customer-centric worker pilot program to assist individuals in overcoming barriers to employment. Of the $7.5 million provided in 2022-23, approximately $4.2 million budgeted for supplies and services would be considered base funding. The remaining amount of $3.3 million for position salaries and fringe benefits would expire concurrently with the project positions. Funds provided under the continuing appropriation would remain in the appropriation until exhausted or redirected in budget legislation.

[Bill Sections: 421 and 1717]

2. FAST FORWARD PANDEMIC TRAINING GRANTS

GPR	$10,000,000

Governor: Create a continuing GPR appropriation for grants to public or private organizations for the development and implementation of pandemic workforce training programs and provide one-time funding of $10,000,000 in 2021-22. Specify that the administration of the pandemic training grants program be funded from DWD's existing workforce training ("Fast Forward") administration appropriation.

Require the Department to award grants to public or private organizations for the development and implementation of pandemic workforce training programs that emphasize training, skill development, and economic recovery for individuals and businesses. Specify that the grants may be used for virtual and in-person job training, employment navigators or coaches, skill assessment, transportation, soft skill development, career or talent search services, and other programs to return employees to the labor market. As a condition of receiving a grant under this provision, DWD may require a public or private organization to provide matching funds at a percentage to be determined by the Department.

Modify existing Fast Forward program provisions to authorize DWD to create rules

prescribing application procedures and criteria for awarding pandemic training grants, and prescribing information regarding grants that must be contained in the Department's required Fast Forward annual report. Under current law and the bill, a report must include information on the number of unemployed and underemployed workers and incumbent employees who participate in the pandemic training grants program.

[Bill Sections: 416, 418, and 1713 thru 1716]

3. PANDEMIC RECOVERY GRANTS TO WORKFORCE DEVELOPMENT BOARDS

GPR	$8,000,000

Governor: Provide one-time funding of $8,000,000 in 2021-22 to a new continuing appropriation for DWD to provide grants to local workforce development boards.

Require the Department to establish and operate a program to provide grants to local workforce development boards to fund efforts to recover from the 2019 novel coronavirus pandemic. Specify that the grants must emphasize training, skill development, and economic recovery for individuals and businesses. The grants may be used for virtual and in-person job training, employment navigators or coaches, skill assessment, transportation, soft skill development, career or talent search services, and other programs to return employees to the labor market.

[Bill Sections: 420 and 1719]

4. FAST FORWARD GREEN JOBS TRAINING GRANTS

GPR	$1,000,000

Governor: Provide $500,000 each year in a new continuing appropriation for DWD to provide grants for training programs for "green jobs" that produce goods or provide services that benefit the environment or conserve natural resources. Require the Department to award grants to public or private organizations for the development and implementation of green jobs training programs. As a condition of receiving a grant, authorize DWD to require a funding match at a percentage DWD may determine.

As described under a separate entry for Fast Forward pandemic training grants, the bill would provide for administration of the green jobs program from DWD's existing Fast Forward administration appropriation. The same provisions described for Fast Forward pandemic training grants regarding rule-making, grant application and evaluation, and annual reporting would apply to the green jobs training program.

[Bill Sections: 416, 417, 1712, and 1714 thru 1716]

5. YOUTH APPRENTICESHIP

GPR	$500,000

Governor: Provide $250,000 annually to the Department's local youth apprenticeship grants appropriation to increase total funding to $5,250,000 annually for youth apprenticeship grants.

Additionally, convert the Department's existing annual appropriation for local youth apprenticeship grants to continuing. Specify that the development of curricula for youth apprenticeship programs for certain occupational areas would not be required to be funded from DWD's general program operations GPR appropriation.

DWD's youth apprenticeship program is an expense reimbursement program with funding statutorily limited to $900 per student served. The purpose of the grant is to sustain and expand the statewide youth apprenticeship program. All local youth apprenticeship consortia, which are partnerships between employers, school districts, technical colleges, labor, and other training or non-profit organizations, must be approved by DWD and provide matching funds equal to at least 50% of grant funds awarded.

[Bill Sections: 423 and 1709]

6. HEALTH CARE JOBS AND RECRUITMENT

GPR	$200,000

Governor: Create a biennial GPR appropriation under DWD for a health care jobs and recruitment program and provide one-time funding of $200,000 in 2021-22. Require the Department, in coordination with local workforce development boards, to: (a) undertake a statewide recruitment initiative to promote and connect individuals with instructional programs for nurse aides, as approved by the Department of Health Services, and nurse aide employment opportunities, and to promote other health care provider employment opportunities; and (b) create a free, four-hour course that individuals may take to explore career opportunities within the field of human services or health care delivery.

[Bill Sections: 419 and 1718]

7. HIRE HEROES

	Funding	Positions
GPR	$110,000	0.50

Governor: Provide $55,000 and 0.5 position annually for DWD general program operations. The Executive Budget Book indicates that the additional funding and position authority would be to help increase employment and job training services for veterans with high barriers to employment.

Eliminate the seven-year limit on when veterans may submit an application to the Hire Heroes program, so that a veteran may submit an application to the program at any time after the date of discharge from military service. Under current law, DWD administers the Hire Heroes program that provides transitional jobs to qualifying veterans and reimburses employers of veterans for wages and other related costs.

[Bill Section: 1720]

8. PROJECT SEARCH

Governor: Transfer $250,000 annually from DWD's Fast Forward workforce training

grants appropriation to a new continuing GPR appropriation under DVR for the administration and general operations related to DWD's Project SEARCH program. Create the new appropriation for field services to clients, administrative services, the purchase of goods and services, and vocational rehabilitation services for persons with disabilities, and require the Department to allocate at least $250,000 in each fiscal year for contracts and activities entered into for the Project SEARCH program.

Delete the requirement that DWD allocate at least $250,000 from the Department's Fast Forward workforce training, programs, grants, services, and contracts annual appropriation in each fiscal year for contracts entered into for the Project SEARCH program.

Specify that the Department may facilitate Project SEARCH opportunities for young adults with disabilities, administer operations, contracts, and services related to the Project SEARCH program, provide training related to the program, maintain existing program sites, and manage the timing for expanding the number of available program sites.

Project SEARCH is a nine- to 12-month program that provides training and education leading to integrated employment for youth with disabilities. Project SEARCH is based on a collaboration that includes a local business, school districts, and DVR.

[Bill Sections: 415, 431, 797, and 798]

9. TRANSFER FUNDING FROM EARLY COLLEGE CREDIT PROGRAM TO APPRENTICESHIP COMPLETION AWARDS

Governor: Reallocate $275,000 GPR annually to DWD's appropriation for the Apprenticeship Completion Award Program (ACAP) from the Department's existing appropriation for early college credit program tuition reimbursement. This would reduce funding from $1,753,500 to $1,478,500 GPR annually for tuition reimbursement and would increase funding from $225,000 to $500,000 GPR annually for ACAP.

The Department's ACAP program partially reimburses eligible apprentices, sponsors, and employers for certain costs of related apprenticeship instruction. DWD's tuition reimbursement appropriation transfers funds to the Department of Public Instruction (DPI) for the state's share of costs under the early college credit program. The bill makes various changes to DPI's early college credit program to address certain program accessibility issues. [See "Public Instruction -- Choice, Charter, and Open Enrollment."]

[Bill Section: 1708]

10. EMPLOYMENT TRANSIT ASSISTANCE PROGRAM MODIFICATION

Governor: Expand the definition of "project" under DWD's employment transit assistance program by repealing the specification that a project be "located in outlying suburban and sparsely populated and developed areas that are not adequately served by a mass transit system." As redefined under the bill, a "project" would improve access to jobs, including part-time jobs and

Wisconsin Works employment positions, and to develop innovative transit service methods. The provision would also repeal similar language from the legislative findings and purpose for the program. As modified, the finding and purpose statement would specify that the Legislature finds that for many workers and persons seeking employment conventional, fixed-route mass transit systems do not provide adequate transportation service.

Under current law and the bill, DWD is appropriated $464,800 GPR annually for employment transit assistance grants. Although not statutorily required, DWD typically transfers all funding appropriated for the employment transit grants program to the Department of Transportation (DOT) to jointly fund the Wisconsin employment transit assistance program (WETAP), as administered by DOT. WETAP is an annual competitive grant program that combines state and federal funding for transit systems and organizations that assist low-income individuals in getting to work. Under a separate provision in the bill, $4,000,000 annually would be provided to the DOT appropriation used to fund the WETAP program. [See "Transportation -- Local Transportation Aid."] The additional funding provided under the bill would increase base funding to $4,582,600 annually in DOT's appropriation used to fund the WETAP program, and would increase funding to the WETAP program to $5,047,400, when combined with the funding provided to DWD.

[Bill Sections: 1710 and 1711]

Equal Rights and Employment Regulation

1. SUBSTANCE ABUSE PREVENTION ON PUBLIC WORKS AND PUBLIC UTILITY PROJECTS

	Funding	Positions
GPR	$270,200	2.00
PR	135,600	1.00
Total	$405,800	3.00

Governor: Provide $173,300 ($115,200 GPR and $58,100 PR) in 2021-22 and $232,500 ($155,000 GPR and $77,500 PR) in 2022-23 and 3.0 positions (2.0 GPR and 1.0 PR) annually for the administration and enforcement of a substance abuse prevention program. Funding would be provided to the Department's general program operations GPR appropriation and to a new PR continuing appropriation for substance abuse prevention on public works and public utility projects. The new PR appropriation would receive all moneys collected from the registration fee required under the provision for costs associated with the administration and enforcement of the substance abuse prevention program.

Under current law, no employee may use, possess, attempt to possess, distribute, deliver, or be under the influence of a drug, or use or be under the influence of alcohol, while performing work on a public works project or public utility project. An employee is considered to be under the influence of alcohol if he or she has an alcohol concentration of .04 or more. Employers also must have in place a written program for the prevention of employee substance abuse.

Require every employer that is subject to the substance abuse prevention requirements to register with DWD in the manner prescribed by the Department by rule. Require DWD to charge

a fee for a registration and to, by rule, establish a tiered fee structure so that fees be set at a level necessary to pay the costs of the Department that are attributable to administering and enforcing the program. Any person found to be in violation of the registration requirement must forfeit no less than $10,000 and not more than $25,000 for each occurrence. Specify that these provisions take effect on the 90th day after publication of the bill.

Require the Department to administer and enforce the program, including any rules necessary to implement the program or establish compliance with the registration requirement. Authorize DWD to promulgate emergency rules, without the finding of an emergency, to implement the substance abuse prevention program. Emergency rules promulgated under this provision would remain in effect until May 1, 2023, or the date on which permanent rules take effect, whichever is sooner.

[Bill Sections: 424, 1661, 1666, 1668, 9150(3), and 9450(10)]

2. INVESTIGATION AND ENFORCEMENT OF WORKER CLASSIFICATION

	Funding	Positions
FED	$367,500	3.00

Governor: Provide $157,500 in 2021-22 and $210,000 in 2022-23 with 3.0 positions annually to DWD's unemployment insurance administration appropriation. The Budget in Brief indicates that the additional positions would be field auditor positions within DWD's Division of Unemployment Insurance to support investigations and audits regarding worker misclassification.

Under current law, employers are required to correctly classify each worker as either an "employee" or "independent contractor." Worker misclassification is the unlawful practice of labeling employees as independent contractors, thereby allowing employers to forego certain tax withholdings, as well as health, retirement, and unemployment insurance benefits. In addition, misclassified employees can be denied access to protections they are entitled to by law, including minimum wage, overtime compensation, workers compensation coverage, and family and medical leave.

3. WORKER MISCLASSIFICATION OUTREACH

Governor: Require DWD to design and make available to employers a notice regarding worker classification laws, requirements for employers and employees, and penalties for noncompliance. Require all employers to post this notice in one or more conspicuous places where notices to employees are customarily posted. Provide that any employer who violates this provision is subject to a forfeiture of not more than $100 for each offense.

Require DWD to establish and maintain on its website information regarding worker classification laws, requirements for employers and employees, penalties for noncompliance, and contact information at each state agency that administers worker classification laws.

[Bill Section: 1614]

4. CHILD WORK PERMIT FEES

PR	$110,000
GPR-REV	- $110,000

Governor: Provide $55,000 PR annually to DWD's continuing appropriation for the child work permit system, and specify that the entire state portion of the child work permit fee be retained by the Department, instead of partly remitted to the general fund. This item would decrease general fund revenues by $55,000 annually.

Under current law, revenues from the issuance of a child work permit are split between DWD, the issuing party, and the state general fund. For each $10 permit issued, $5 is deposited into the DWD PR appropriation, $2.50 is deposited to the general fund, and $2.50 is retained by the local permit issuer. Revenues received by DWD from permit fees are used to support positions that provide enforcement and education related to laws governing the employment of minors. Under this provision, for each $10 permit issued, $7.50 would be deposited into DWD's child work permit PR appropriation and $2.50 would be retained by the local permit issuer.

[Bill Section: 1669]

5. CHILD WORK PERMIT FUNCTIONS

	Funding	Positions
FED	$192,400	3.00
PR	- 192,400	- 3.00
Total	$0	0.00

Governor: Reallocate $96,200 PR and 3.0 positions annually from DWD's child work permit system appropriation to the Department's equal rights FED appropriation. Both appropriation accounts fund the program operations of DWD's Equal Rights Division.

6. EQUAL RIGHTS TECHNOLOGY UPGRADES

GPR	$70,000

Governor: Provide $35,000 annually to the Department's general program operations appropriation for technology upgrades in the Equal Rights Division. The Executive Budget Book states that the additional funding would be for the development of a new online form for submitting equal rights complaints.

7. MIGRANT LABOR INSPECTOR

	Funding	Positions
GPR	$135,400	1.00

Governor: Provide $58,000 in 2021-22 and $77,400 in 2022-23 and 1.0 position annually to the Department's general program operations appropriation to fund 1.0 migrant labor inspector position. The additional migrant labor inspector would focus on inspections of housing for domestic migrant and seasonal workers as well as providing employment services.

8. MINIMUM WAGE

Governor: Specify annual increases to the minimum wage level for most employees, from the effective date of the bill to January 1, 2025. The following table shows the current minimum wages rates and those provided under the bill.

Minimum Wage Rates

	Current Law	Beginning on Effective Date of Bill Through 12/31/22	Beginning 1/1/23 Through 12/31/23	Beginning 1/1/24 through 12/31/24
Adult, Minor, Agricultural Employee	$7.25	$8.60	$9.40	$10.15
Opportunity Employee	5.90	6.71	7.32	7.93
Tipped Employee	2.33	2.65	2.89	3.13
Tipped Opportunity Employee	2.13	2.42	2.64	2.86
Caddies				
9 Holes	5.90	6.71	7.32	7.93
18 Holes	10.50	11.95	13.03	14.12
Camp Counselors (Adult and Minor), weekly rate				
No Board or Lodging	350.00	398.28	434.48	470.69
Board Only	265.00	284.48	310.34	336.21
With Board and Lodging	210.00	238.97	260.69	282.41

Require DWD to revise each minimum wage rate in effect on January 1, 2025 (last column in the table), and on each January 1 thereafter, by the percentage change in the Consumer Price Index (CPI) for the most recent 12-month period for which full-month information is available. The bill would require DWD to annually revise the amount published in the Wisconsin Administrative Register and on the DWD internet site.

Define "consumer price index" to mean the average of the CPI over each 12-month period for all urban consumers (CPI-U), U.S. city average, all items, not seasonally adjusted, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor.

Minimum Wage Study Committee. Require the DWD Secretary to establish a minimum wage study committee to consist of the following members: (a) five members appointed by the Governor; (b) one member appointed by the Speaker of the Assembly; (c) one member appointed by the Minority Leader of the Assembly; (d) one member appointed by the Majority Leader of the Senate; and (e) one member appointed by the Minority Leader of the Senate. Require the committee to study options to achieve a $15 per hour minimum wage and other options to increase compensation for workers in this state. No later than October 1, 2022, require the committee to submit to the Governor and the appropriate standing committees of the Legislature a report that includes recommendations regarding the options for achieving a $15 per hour minimum wage and other means of increasing worker compensation in this state. Specify that the minimum wage study committee would terminate upon submission of the report.

[Bill Sections: 1672 thru 1706, 2454, and 9150(1)]

9. PREVAILING WAGE

Governor: Restore the state prevailing wage law as the law existed prior to 2015 Act 55 by repealing: (a) the provisions of 2015 Act 55 that eliminated the state prevailing wage law applying to local projects of public works (counties, villages, towns, cities, school districts, municipal

utilities and technical colleges); and (b) the provisions of 2017 Act 59 that eliminated the state prevailing wage law that applied to state agency and state highway projects.

Under current law, there are no state prevailing wage standards for local projects of public works, state agency projects, or state highway projects. The state prevailing wage requirements for local projects were repealed effective January 1, 2017. The state prevailing wage requirements for state agency and state highway projects were repealed effective September 23, 2017. These changes did not affect federal Davis-Bacon Act requirements, which specify that building and highway projects that utilize at least $2,000 in federal funds are subject to the federal prevailing wage rates as determined by the U.S. Department of Labor.

Under the bill, the state prevailing wage law would be as it was immediately prior to the passage of 2015 Act 55. Generally, the prevailing wage law under the bill would consist of the following major elements:

Application of the Prevailing Wage Law. Specify that state prevailing wage requirements apply based on various project cost thresholds. For a single-trade project, the threshold is $48,000, whereas the threshold for a multiple-trade project is either $100,000 or $234,000; the latter applies to public works projects erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village with a population less than 2,500, or for a town. A "single-trade project" is defined as one in which a single trade (such as a carpenter, glazier, or electrician) accounts for 85% or more of the total labor cost of the project. A "multiple-trade project" is defined as one in which no single trade accounts for more than 85% of the total labor cost of the project.

Prevailing Hours of Labor. Specify that workers to whom state prevailing wage law applies may not be permitted to work a greater number of hours per day or per week than the prevailing hours of labor, unless they are paid for all hours worked in excess of prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate of pay. Define "prevailing hours of labor" to mean 10 hours per day and 40 hours per week, not including any hours worked on a Saturday or Sunday, or on certain holidays.

Prevailing Wage Rate. Define "prevailing wage rate" to mean the hourly basic rate of pay, plus the hourly contribution for health insurance, vacation, pension, and any other economic benefit, paid for a majority of the hours worked in a trade or occupation on projects in an area (generally the county). If there is no rate at which a majority of the hours worked in the occupation on projects in the area is paid, the prevailing wage rate would mean the average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution, weighted by the number of hours worked, for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid for all hours worked at the hourly basic rate of pay of the highest-paid 51% of hours worked in that trade or occupation on projects in that area.

Survey Process. Require DWD to determine prevailing wage rates for each trade or occupation in each area of the state by January 1 of each year. The survey would be based on a statutorily prescribed annual survey process for all types of local public works projects, state agency public works projects excluding highways and bridges, and state-contracted highway construction projects. Provide that DWD may not collect survey data from projects that are subject to the state or federal prevailing wage requirements unless DWD determines that there is

insufficient wage data in the area to determine a prevailing wage rate.

Administration and Enforcement. Require DWD to enforce all local and state prevailing wage laws, and require the Department of Transportation (DOT) to administer and enforce federal and state prevailing wage laws for highway and bridge construction projects. Require DWD, by May 1 of each year, to certify to DOT the prevailing wage rates in each area for all trades or occupations commonly employed in the highway construction industry.

Specify that all provisions regarding compliance, enforcement, inspection, notice, appeals, remedies, coverage, and penalties from the state prevailing wage law as it was prior to the enactment of 2015 Act 55 would be recreated and made effective on the date of the bill.

Retain the current prohibition against local governments enacting or administering their own prevailing wage laws or similar ordinances. Currently, a local governmental unit may not enact and administer an ordinance or other enactment requiring laborers, workers, mechanics, and truck drivers employed on projects of public works, or on publicly funded private construction projects, to be paid the prevailing wage rate and to be paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the prevailing hours of labor.

Specify that for a project of public works that is subject to bidding, the prevailing wage requirement first applies to a project for which the request for bids is issued on or after the effective date of the bill.

Specify that for a project of public works that is not subject to bidding, the prevailing wage requirement first applies to a contract that is entered into on or after the effective date of the bill.

[Bill Sections: 247, 1113, 1175 thru 1181, 1481, 1615, 1659, 1660, 1662 thru 1665, 1667, 1671, 1707, 1780, 1801 thru 1803, 2456, 2471, 2493, 3336, 3457, 9350(7), and 9350(8)]

10. REPEAL RIGHT TO WORK

Governor: Repeal the provisions of 2015 Wisconsin Act 1 that specify that no person may require, as a condition of obtaining or continuing employment, an individual to do any of the following: (a) refrain or resign from membership in, voluntary affiliation with, or voluntary financial support of a labor organization; (b) become or remain a member of a labor organization; (c) pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value, to a labor organization; or (d) pay to any third party an amount that is in place of, equivalent to, or any portion of dues, fees, assessments, or other charges or expenses required of members of, or employees represented by, a labor organization. Delete current law specifying that these provisions apply to the extent permitted under federal law and that if a section of a contract violates this provision, that section of the contract is void.

Unfair Labor Practices. For the purposes of the following provisions, the definition of "employer" does not include the state or any political subdivision thereof.

Modify the current declaration of an unfair labor practice relating to an employer encouraging or discouraging membership in any labor organization, employee agency, committee,

association, or representation plan by discrimination in regard to hiring, tenure, or other terms or conditions of employment. Create an exception for a collective bargaining unit where an all-union agreement is in effect. Under current law, an "all-union agreement" means an agreement between an employer and the representative of the employer's employees in a collective bargaining unit whereby all or any of the employees in such unit are required to be members of a single labor organization.

Modify the current declaration of unfair labor practice for an employer to bargain collectively with the representatives of less than a majority of the employer's employees in a collective bargaining unit, or to enter into an all-union agreement, by creating an exception for an employer who does so with the voluntarily recognized representative of the employees in a collective bargaining unit, where at least a majority of such employees voting have voted affirmatively, by secret ballot, in favor of the all-union agreement in a referendum conducted by the Wisconsin Employment Relations Commission (WERC). If the bargaining representative has been certified by either WERC or the National Labor Relations Board as the result of a representation election, no referendum is required to authorize the entry into an all-union agreement.

Specify that the authorization of an all-union agreement continues, subject to the right of either party to the agreement to petition WERC to conduct a new referendum on the subject. Upon receipt of the petition, if WERC determines there is reasonable ground to believe that the employees concerned have changed their attitude toward the all-union agreement, WERC shall conduct a referendum. If the continuance of the all-union agreement is supported on a referendum by a majority vote, it may continue, subject to the right to petition for a further vote by the same procedure. If the continuance of the all-union agreement is not supported on a referendum, it terminates at the expiration of the contract of which it is then a part or at the end of one year from the date of the announcement by WERC of the result of the referendum, whichever is earlier. Require WERC to declare any all-union agreement terminated whenever it finds that the labor organization involved has unreasonably refused to receive as a member any employee of such employer. An interested person may, as specified in current law, request WERC to perform this duty.

Modify the current declaration of an unfair labor practice that prohibits an employer from deducting labor organization dues or assessments from an employee's earnings, unless the employer has been presented with an individual order signed by the employee and terminable by the employee at the end of any year of its life. Create an exception for cases in which there is an all-union agreement in effect. Specify that the employer must give notice to the labor organization of receipt of a notice of termination.

Declaration of Policy. Recreate a state declaration of policy on employment relations repealed under Act 1. The declaration would state, in part:

(a) that the public policy of the state, as to employment relations and collective bargaining, recognizes that there are three major interests: the public, the employee, and the employer; and that these three interests are interrelated and that it is the policy of the state to protect and promote each of these interests with due regard to the situation and to the rights of the others; and

(b) that industrial peace, regular and adequate income for the employee, and uninterrupted production of goods and services are promotive of all of these interests and are dependent upon the maintenance of fair, friendly, and mutually satisfactory employment relations and the availability of suitable machinery for the peaceful adjustment of whatever controversies may arise; that whatever may be the rights of disputants, they should not be permitted to intrude directly into the primary rights of third parties to earn a livelihood, transact business, and engage in the ordinary affairs of life; and

(c) that negotiations of terms and conditions of work should result from voluntary agreement between employer and employee; and that an employee has the right, if the employee desires, to associate with others in organizing and bargaining collectively through representatives of the employee's own choosing; and

(d) that it would be the policy of the state, in order to preserve and promote the interests of the public, the employee, and the employer, to establish standards of fair conduct in employment relations and to provide a convenient, expeditious, and impartial tribunal by which these interests may have their respective rights and obligations adjudicated.

Penalties. Repeal the provision that specifies that anyone who violates the right to work law is guilty of a Class A misdemeanor.

[Bill Sections: 1782 thru 1787 and 3353]

11. PROJECT LABOR AGREEMENTS

Governor: Repeal the provisions of 2017 Wisconsin Act 3, which prohibits state and local units of government from any of the following in letting bids for state procurement or public works contracts: (a) requiring that a bidder enter into or adhere to an agreement with a labor organization; (b) considering, as a factor in making an award, whether any bidder has or has not entered into an agreement with a labor organization; or (c) requiring that a bidder enter into, adhere to, or enforce any agreement that requires, as a condition of employment, that the bidder or bidder’s employees become or remain members of, or be affiliated with, a labor organization or pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value, to a labor organization or a labor organization’s health, welfare, retirement, or other benefit plan or program.

[Bill Sections: 125, 147, and 1170 thru 1174]

12. LOCAL EMPLOYMENT REGULATIONS

Governor: Repeal the provisions of 2017 Wisconsin Act 327, which prohibits local units of government from enacting or enforcing ordinances related to any of the following: (a) regulations related to wage claims and collections; (b) requiring a person to accept provisions of a collective bargaining agreement or to waive rights under state or federal labor relations laws (defined as the National Labor Relations Act and the Labor Management Relations Act); (c)

regulation of employee hours of labor or overtime, including scheduling of employee work hours or shifts; (d) requiring an employer to provide certain employment benefits, including retirement, pension, profit sharing, insurance, or leave benefits; (e) prohibiting an employer from requesting the salary history of a prospective employee; (f) prohibiting requiring any person to waive the person's rights under state or federal labor laws, or compel or attempt to compel a person to agree to waive the person's rights under state or federal labor laws, as a condition of any regulatory approval or other approval by the local governmental unit; or (g) imposing occupational licensing requirements on an individual that are more stringent than state-imposed licensing requirements for the profession.

Repeal the prohibition on local units of government from enacting ordinances that require employers to provide employees with paid or unpaid family and medical leave from employment for employees of private employers. This would generally delete provisions enacted under 2011 Wisconsin Act 16.

Recreate provisions from the 2015 statutes specifying that the prohibition on a local government (county, city, village, or town) from enacting a minimum wage ordinance does not affect a local government ordinance that applies the state prevailing wage law requirements specified under the bill to an employee of a local government, a contractor for the local government, or a person performing work using financial assistance from the local government.

[Bill Sections: 1114, 1135, 1616, 1655, 1658, 1670, 1781, and 3354]

13. FAMILY AND MEDICAL LEAVE

Governor: Require employers that employ 25 or more employees on a permanent basis to comply with the family and medical leave law. Also, decrease the number of hours an employee is required to work before qualifying for family and medical leave to 680 hours during the preceding 52 weeks.

Under current law, an employer that employs at least 50 individuals on a permanent basis in this state is required to allow an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52 weeks to take the following: (a) six weeks of family leave in a 12-month period for the birth or adoptive placement of a child; (b) two weeks of family leave in a 12-month period to care for the employee's child, spouse, domestic partner, or parent with a serious health condition; and (c) two weeks of medical leave in a 12-month period when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties. Total family leave cannot exceed eight weeks for any combination of allowable reasons.

Care for Grandparent, Grandchild, or Sibling. Specify that an employee covered under the law be allowed to take two weeks of family leave in a 12-month period to care for a grandparent, grandchild, or sibling, in addition to the current family leave definition that specifies that an employee may take family leave to care for the employee's child, spouse, domestic partner, or parent who has a serious health condition.

Define the following: (a) "grandchild" to mean the child of a child; (b) "grandparent" to mean the parent of a parent; (c) "sibling" to mean a brother, sister, half-brother, half-sister, stepbrother, or stepsister, whether by blood, marriage, or adoption; and (d) "employee" to mean an individual employed in this state by an employer, except the employer's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling. Current law does not include grandparent, grandchild, or sibling.

Provide that current family and medical leave law governing proper notice to employers, proper medical certifications, and administrative proceedings, that currently reference child, spouse, domestic partner, parent, and employee, also include references to grandparent, grandchild and sibling.

Medical Isolation. Provide that an employee covered under the law be allowed to take two weeks of family leave in a 12-month period to care for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling who is in medical isolation. Specify that an employee who is in medical isolation that makes the employee unable to perform his or her employment duties may take medical leave for the period during which he or she is unable to perform those duties.

Define "medical isolation" to mean any of the following: (a) when a health care professional, a local health officer, or the Department of Health Services (DHS) advises that the individual seclude herself or himself from others when the individual is awaiting the result of a diagnostic test for a communicable disease, or when the individual is infected with a communicable disease; (b) when a local health officer or DHS advises that an individual isolate or quarantine; or (c) when an individual's employer advises that the individual not come to the workplace due to a concern that the individual may have been exposed to or infected with a communicable disease.

Specify that an employer and an employee in medical isolation may mutually agree to alternative employment for the employee while the medical isolation lasts. Further, specify that no period of alternative employment, with the same employer, reduces the employee's right to family leave or medical leave.

Specify that if an employee requests medical leave due to the employee's own medical isolation, or family leave to care for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling that is in medical isolation, the employer may require the employee to provide certification. The certification must be issued by a local public health official, DHS, or a health care provider or Christian Science practitioner of the child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee. Provide that no employer may require certification if the sole reason for the medical isolation is because the employer advised that the individual not come to the workplace due to a concern that the individual may have been exposed to or infected with a communicable disease. In addition, no employer may require certification stating more than the following: (a) that the child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee is in medical isolation, and (b) the date the medical isolation commenced and its probable duration.

Family Caregiving. Provide that an employee covered under the law be allowed to take six weeks of family leave in a 12-month period because of family caregiving for the employee's child,

spouse, domestic partner, sibling, parent, grandparent, or grandchild, if the child, spouse, domestic partner, sibling, parent, grandparent, or grandchild has a chronic condition. Include adult children who suffer from a chronic condition, and require family caregiving, in the definition of "child" for the purposes of taking family leave.

Define "family caregiving" to mean providing care or assistance without remuneration to a family member who suffers from a chronic condition and includes all of the following: (a) providing direct treatment to an individual with a chronic condition; (b) attending training and educational courses on duties and responsibilities for caring for an individual with a chronic condition; (c) attending discharge planning meetings for an individual with a chronic condition; (d) attending care planning meetings for an individual with a chronic condition; and (e) attending appointments with health care providers for an individual with a chronic condition.

Define "chronic condition" to mean a health condition, illness, impairment, or physical or mental condition that involves: (a) a condition or disease that is persistent or otherwise long-lasting in its effects; (b) a condition or disease that lasts for at least three months; (c) a condition or disease that requires the individual to have assistance with one or more essential daily activities; or (d) outpatient care that requires continuing treatment or supervision by a health care provider.

Expand the definition of "child" under current family and medical leave law by deleting the requirements that a natural or adopted child, foster child, stepchild, or a legal ward be: (a) less than 18 years of age; or (b) 18 years of age or older and unable to care for himself or herself because of a serious health condition.

Specify that if an employee intends to take family leave because of the family caregiving of a child, spouse, domestic partner, sibling, or parent, grandparent, or grandchild, the employee must do both of the following: (a) make a reasonable effort to schedule the family caregiving so that it does not unduly disrupt the employer's operations, subject to the approval of the health care provider of the child, spouse, domestic partner, sibling, parent, grandparent, grandchild, or employee, and (b) give the employer advance notice of the family caregiving in a reasonable and practicable manner.

Specify that if an employee requests family leave for the purpose of family caregiving, the employer may require the employee to provide certification, issued by the health care provider or Christian Science practitioner of the child, spouse, domestic partner, sibling, parent, grandparent, grandchild, or employee. No employer could require certification stating more than the following: (a) that the child, spouse, domestic partner, sibling, parent, grandparent, grandchild, or employee has a serious health condition or a chronic condition; (b) the date the serious health condition or chronic condition commenced and its probable duration; and (c) within the knowledge of the health care provider or Christian Science practitioner, the medical facts regarding the serious health condition or chronic condition.

Covered Active Duty. Provide that an employee covered under the law be allowed to take six weeks of family leave in a 12-month period because of any qualifying exigency, as determined by DWD by rule, arising out of the fact that the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee is on covered active duty or has been notified of an impending call or order to covered active duty. If the employee intends to take leave that is

foreseeable because the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee is on covered active duty or has been notified of an impending call or order to covered active duty, the employee is to provide notice of that intention to the employer in a reasonable and practicable manner.

Specify that if an employee requests leave under the covered active duty provision, the employer may require the employee to provide certification that the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee is on covered active duty or has been notified of an impending call or order to covered active duty issued at such time and in such manner as the DWD may prescribe by rule, and the employee must provide a copy of that certification to the employer in a timely manner.

Define "covered active duty" to mean any of the following: (a) in the case of a member of a regular component of the U.S. Armed Forces, duty during the deployment of the member with the U.S. Armed Forces to a foreign country, or (b) in the case of a member of a reserve component of the U.S. Armed Forces, duty during the deployment of the member with the U.S. Armed Forces to a foreign country under a call or order to active duty.

Closure of Child Care Center, Provider or School. Specify that an employee covered under the law be allowed to take six weeks of family leave in a 12-month period because a child care center, child care provider, or school that the employee's child attends is experiencing an unforeseen or unexpected short-term closure. Provide that if an employee requests leave due to such a closure, the employer may require the employee to provide certification that the child care center, child care provider, or school that the employee's child attends is experiencing an unforeseen or unexpected short-term closure. Under the bill, DWD may prescribe by rule the form and content of the certification.

Posting. Repeal a requirement that any person employing at least 25 individuals post, in one or more conspicuous places where notices to employees are customarily posted, a notice describing the person's policy with respect to leave for the reasons under the family and medical leave law. Current law already requires that each employer post, in one or more conspicuous places where notices to employees are customarily posted, a notice in a form approved by DWD setting forth employees' rights under the family and medical leave law.

Complaints. Extend the time period in which an employee may file a complaint with DWD to 300 days, from 30 days under current law, after either the violation occurs or the employee should reasonably have known that the violation occurred, whichever is later. This provision would first apply to a violation that occurs, or that an employee should reasonably have known occurred, on the effective date of the bill.

Rules. Authorize DWD to promulgate emergency rules, without a finding of emergency, to implement the changes under the provision. Emergency rules promulgated under this provision would remain in effect until July 1, 2022, or the date on which permanent rules take effect, whichever is sooner.

[Bill Sections: 1617 thru 1629, 1631 thru 1654, 9150(4), and 9350(13)]

14. DISCRIMINATION ON THE BASIS OF GENDER EXPRESSION OR GENDER IDENTITY

Governor: Prohibit public and private employers, labor organizations, employment agencies, licensing agencies, or other persons from discriminating against employees, job applicants, or licensing applicants on the basis of an individual's gender identity or gender expression.

Define "gender expression" to mean an individual's actual or perceived gender-related appearance, behavior, or expression, regardless of whether these traits are stereotypically associated with the individual's assigned sex at birth.

Define "gender identity" to mean an individual's internal understanding of the individual's gender, or the individual's perceived gender identity.

Wisconsin Fair Employment Law. The Wisconsin Fair Employment Law (Chapter 111, Subchapter II) prohibits discrimination in recruitment and hiring, job assignments, pay, leave or benefits, promotion, licensing, union membership, training, layoff and firing, and other employment-related actions. Under the law, an otherwise properly qualified individual cannot be discriminated against in employment based on their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of lawful products off the employer's premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters. The bill would add gender expression and gender identity as protected categories ("prohibited bases of discrimination") under the state's Fair Employment Law. The bill would amend the stated policy and findings of the Legislature to include discrimination based on gender identity or gender expression as substantially and adversely affecting the welfare of the state, and that the Legislature's intent is to protect by law the rights of all individuals to obtain gainful employment and enjoy privileges free from such discrimination.

Specify that, under the Wisconsin Fair Employment Law, employment discrimination because of sex includes engaging in harassment that consists of unwelcome verbal or physical conduct directed at another individual because of that individual's gender, gender expression or gender identity, other than certain specified forms of sexual harassment, and that has the purpose or effect of creating an intimidating, hostile or offensive work environment, or has the purpose or effect of substantially interfering with that individual's work performance. Under current law, gender expression and gender identity are not specified.

Specify that, under the Wisconsin Fair Employment Law, employment discrimination because of sex includes: (a) refusing to hire, employ, admit or license any individual; (b) barring or terminating from employment, membership, or licensure any individual; or (c) discriminating against any individual in promotion, in compensation, or in the terms, conditions, or privileges of employment because of the individual's sexual orientation, gender expression, or gender identity. Under current law, gender expression and gender identity are not specified.

Specify that, under the Wisconsin Fair Employment Law, employment discrimination because of sex includes, but is not limited to, discriminating against any individual ("woman"

under current law) on the basis of pregnancy, childbirth, parental ("maternity" under current law) leave or related medical conditions by engaging in certain prohibited actions including, but not limited to, actions concerning fringe benefit programs covering illnesses and disability.

Modify the definition of "labor organization" under the Wisconsin Fair Employment Law to exclude any organization that discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, sexual orientation, gender expression, gender identity, or national origin. Under current law, gender expression and gender identity are not specified within the statute.

Specify that it is not employment discrimination for an employer to require an employee to adhere to reasonable workplace appearance, grooming, and dress standards not precluded by other provisions of state or federal law, provided that an employer shall allow an employee to appear or dress consistently with the employee's gender identity or gender expression.

Revise certain current references of "he or she" to "the person" under the Wisconsin Fair Employment Law.

State Employee Labor Organizations. Specify that a labor organization representing state employees for the purpose of collective bargaining may not discriminate with regard to the terms or conditions of membership because of gender expression or gender identity. Under current law, a labor organization representing state employees for the purpose of collective bargaining may not discriminate with regard to the terms or conditions of membership because of race, color, creed, sex, age, sexual orientation, or national origin. The bill would amend this statute to add gender expression and gender identity to the list of individual characteristics upon which a state employee labor organization cannot discriminate.

State Contracts. Specify that contracting agencies in the executive branch, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, and the Bradley Center Sports and Entertainment Corporation must include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of gender expression or gender identity. Under current law, the contracting entities listed above must include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability, sexual orientation, or national origin. The bill would amend this statute to add gender expression and gender identity to the list of individual characteristics upon which a contractor cannot discriminate.

State Employment. Specify that it is the policy of the state to provide for equal opportunity by ensuring that all personnel actions by executive branch agencies including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to gender expression or gender identity. Further, specify that no discrimination may be exercised in the recruitment, application, or hiring process against or in favor of any person because of the person's gender expression or gender identity except as otherwise provided.

Under current law, it is the policy of the state to provide for equal opportunity by ensuring that all personnel actions by executive branch agencies including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, disability, sex, national origin, ancestry, sexual orientation, or political affiliation. Also under current law, no discrimination may be exercised in the recruitment, application, or hiring process against or in favor of any person because of the person's age, sex, disability, race, color, sexual orientation, national origin, or ancestry except as otherwise provided. The bill would amend these statutes to add gender expression and gender identity to the list of individual characteristics upon which state executive branch agency employment decisions cannot be based.

University of Wisconsin System Employment. Specify that the University of Wisconsin Board of Regents not consider sexual orientation, gender expression or gender identity in the appointment of employees of the University of Wisconsin System. Under current law, the Board of Regents must not consider or exercise sectarian or partisan tests or any tests based upon race, religion, national origin, or sex in the appointment of employees of the University of Wisconsin System.

Vocational Rehabilitation Services. Specify that eligibility for vocational rehabilitation services is determined without regard to sexual orientation, gender expression or gender identity. Under current law, eligibility for vocational rehabilitation services is determined without regard to the sex, race, age, creed, color, or national origin of the individual applying for services, that no class of individuals is found ineligible solely on the basis of type of disability and that no age limitations for eligibility exist.

Public School Employment. Specify that in the employment of teachers or administrative personnel in public schools, or in their assignment or reassignment, gender expression or gender identity may not be considered. Under current law, there may be no discrimination in the employment of teachers or administrative personnel in public schools because of sex, except where sex is a bona fide occupational qualification, sexual orientation, race, national origin, or political or religious affiliation.

Wisconsin Housing and Economic Development Authority (WHEDA). Specify that WHEDA require contractors and subcontractors engaged in the construction of economic development or housing projects to provide an equal opportunity for employment, without discrimination as to gender expression or gender identity. Under current law, WHEDA must require contractors and subcontractors engaged in the construction of economic development or housing projects to provide an equal opportunity for employment, without discrimination as to sex, race, religion, sexual orientation, or creed. [See "Wisconsin Housing and Economic Development Authority."]

National Guard. Specify that no person, otherwise qualified, may be denied membership in the National Guard or state defense force because of gender expression or gender identity, and no member of the National Guard or state defense force may be segregated within the National Guard or state defense force on the basis of gender expression or gender identity. Under current law, no person, otherwise qualified, may be denied membership in the National Guard or state defense force because of sex, color, race, creed, or sexual orientation, and no member of the National Guard

or state defense force may be segregated on the basis of sex, color, race, creed, or sexual orientation. The bill would also specify that no person may be denied equal access to facilities most consistent with the person's gender identity. Current law prohibits separate facilities for persons of different sexes with regard to dormitory accommodations, toilets, showers, saunas, and dressing rooms.

The bill would also prohibit discrimination on the basis of a person's status as a holder or a non-holder of a REAL ID non-compliant license and add this license status as a prohibited basis for discrimination in public or private employment, and occupancy of housing projects. [See "Transportation -- Motor Vehicles."]

[Bill Sections: 144, 145, 648, 796, 1788, 1790, 1792, 1794, 1795, 1799, 1812 thru 1817, 1860, 2020, 2498, 2508, 2523, and 2755]

15. CIVIL ACTIONS REGARDING EMPLOYMENT DISCRIMINATION, UNFAIR HONESTY, AND UNFAIR GENETIC TESTING

Governor: Specify that the Department or an individual alleged or found to have been discriminated against or subjected to unfair honesty testing or unfair genetic testing may bring an action in circuit court requesting relief against an employer, labor organization, or employment agency that is alleged or found to have engaged in the conduct. Under current law, DWD has statutory responsibilities to receive and investigate complaints alleging discrimination and discriminatory practices. This includes actions responding to alleged honesty testing, such as a polygraph test, or genetic testing by employers, both of which employers generally may not require of employees or coerce them into accepting. DWD's authorities include the ability to conduct hearings, make findings, and issue orders to eliminate unfair or unlawful action, including awarding compensation for violations. DWD findings are reviewable by the Labor and Industry Review Commission (LIRC), and decisions of LIRC can be reviewed further by a circuit court upon petition of a party.

The following paragraphs describe changes under the bill to these procedures, including the creation of civil actions for instances of discrimination or unfair honesty or genetic testing.

Notices. Require DWD to serve a certified copy of its findings and order on the complainant, together with a notice advising the complainant about: (a) the right to seek, and the time for seeking, review by LIRC; (b) the right to bring, and the time for bringing, an action for judicial review; and (c) the right to bring, and the time for bringing, a civil action as described separately. This notice would be in addition to current requirements of serving notice of findings to the respondent alleged to have committed a discriminatory or unfair practice, or to the complainant if DWD finds reason to dismiss the complaint.

Require LIRC to serve a certified copy of the Commission's decision on the respondent. Required LIRC to also serve a certified copy of the Commission's decision on the complainant, together with a notice advising the complainant about the right to bring, and the time for bringing, an action for judicial review under current law and about the right to bring, and the time for bringing, a civil action as specified under the provision.

Civil Action Procedures and Limitations. Specify that an action many not be brought against: (a) a local governmental unit, including a political subdivision, special purpose district, an instrumentality or corporation of either type of governmental unit, or any other combination of political subdivision or special entity created by a political subdivision; or (b) an employer, labor organization, or employment agency that employs fewer than 15 individuals for each working day in each of 20 or more calendar weeks in the current or preceding year. Require that the civil action commence within 300 days after the alleged discrimination, unfair honesty testing, or unfair genetic testing occurred.

Specify that if a petition for judicial review of a LIRC finding and order of concerning the same violation as the violation giving rise to the civil action is filed, the circuit court shall consolidate the proceeding for judicial review and the civil action.

Specify that an individual alleged or found to have been discriminated against or subjected to unfair honesty testing or unfair genetic testing is not required to file a complaint with the Department or seek judicial review in order for DWD or the individual to bring a civil action as provided.

Noneconomic Losses and Punitive Damages Cap and Cap Indexing. Specify that in a civil action permitted under this provision, if the circuit court finds that discrimination, unfair honesty testing, or unfair genetic testing has occurred, or if such a finding has been made by an examiner or LIRC and not been further appealed, the circuit court may order any relief that an examiner would be empowered to order under current law after a hearing on a discrimination complaint. In addition, require the circuit court to order the defendant to pay to the individual discriminated against or subjected to unfair honesty testing or unfair genetic testing any other compensatory damages, and punitive damages, as permitted under current law, that the circuit court or jury finds appropriate, plus reasonable costs and attorney fees incurred in the action. Require the circuit court to specify whether the relief ordered from the civil action, as provided under the bill, is in addition to or replaces any relief as ordered by DWD, LIRC or the circuit courts. Specify that civil action court costs would be exempted from certain thresholds under current law.

Provide that the sum of the amount of compensatory damages for future economic losses and for pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, and other noneconomic losses and the amount of punitive damages that a circuit court may order may not exceed the following:

(a) For a defendant that employs 100 or fewer employees for each working day in each of 20 or more calendar weeks in the current or preceding year, $50,000.

(b) For a defendant that employs more than 100 but fewer than 201 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, $100,000.

(c) For a defendant that employs more than 200 but fewer than 501 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, $200,000.

(d) For a defendant that employs more than 500 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, $300,000.

Specify that if the circuit court orders a payment because an individual was found to have been discriminated against or subjected to unfair honesty testing or unfair genetic testing by an individual employed by an employer, the employer of that individual is liable for the payment.

Required DWD, beginning on July 1, 2022, and on each July 1 after that, to adjust the caps on gross damages, by the percentage change in CPI-U for the 12-month period ending on December 31 of the preceding year. Require DWD to publish the adjusted amounts calculated under this subdivision in the Wisconsin Administrative Register, and the adjusted amounts shall apply to civil actions commenced beginning on July 1 of the year of publication. Specify that this provision would not apply for years in which the CPI decreased over the preceding calendar year.

Effective Date. Specify that this provision first applies to acts of employment discrimination, unfair honesty testing, or unfair genetic testing committed on the effective date of the bill.

[Bill Sections: 1819 thru 1822, 3077, and 9350(10)]

16. JOB APPLICANT CONVICTION HISTORY

Governor: Provide that employment discrimination because of a conviction record includes a prospective employer requesting an applicant for employment to supply information regarding the conviction record of the applicant, or otherwise inquiring into or considering the conviction record of an applicant for employment, before the applicant has been selected for an interview by the prospective employer. Specify that this provision does not prohibit an employer from notifying applicants for employment that an individual with a particular conviction record may be disqualified by law or under the employer's policies from employment in particular positions. Under the bill, these provisions first apply to an application for employment submitted to an employer on the first day of the sixth month beginning after publication of the bill.

The bill also would specify employment discrimination because of a conviction record includes certain inquiries or actions relating to convictions that have since been expunged. [See "Corrections -- Adult Sentencing."] The bill would make various changes to reflect renumbered statutes under both provisions.

[Bill Sections: 1804 thru 1810, 3453, 9350(9), and 9450(7)]

17. LOCATION OF EQUAL RIGHTS HEARINGS

Governor: Eliminate the requirement that hearings concerning open housing violations and discrimination in a public place of accommodation or amusement are to be held within the county in which the violation is alleged to have occurred. Eliminate the requirement that hearings concerning employment discrimination, unfair honesty testing, or unfair genetic testing, be held either within the county of the respondent's residence or the county in which the discrimination, unfair honesty testing or unfair genetic testing appears to have occurred. For each type of hearing previously mandated to be held within a given county, the bill would require DWD to designate the place of hearing, which may include a remote, web-based, or in-person hearing in a location

accessible and in proximity to the parties.

[Bill Sections: 1725, 1731, and 1818]

Unemployment Insurance

1. SYSTEMS MODERNIZATION

GPR	$79,486,000

Governor: Provide $79,486,000 in 2021-22 in a new UI information technology systems continuing appropriation [20.445(1)(ar)]. Amounts provided could be expended on the renovation and modernization of UI information technology (IT) systems, specifically including development and implementation of a new system and reengineering of automated processes and manual business functions.

Create a new unemployment insurance administration appropriation [20.445(1)(nc)] to receive federal funds for UI program IT system renovation and modernization. The appropriation would receive amounts allocated to the state for UI program IT renovation and modernization, as determined by the treasurer of the state's UI trust fund. Modify DWD's existing general UI administration FED appropriation to require that of monies received by the state for UI program administration, funds for UI systems modernization are to transfer to the new appropriation.

Require DWD to allocate all available federal funding for the renovation and modernization of UI information technology systems before allocating any GPR for that purpose. If federal funding were received for UI systems modernization prior to July 1, 2023, the bill would allow the Secretary of the Department of Administration (DOA), to the extent permitted under federal law, to transfer to the general fund any amount of federal funding received, up to the GPR appropriated under 20.445(1)(ar). This provision would not apply with respect to certain federal funds received as routine UI administrative grants by the state.

Amend the title of DWD's existing appropriation for UI program IT systems upgrades to specify that the account is for other federal moneys, separate from the new appropriation under 20.445(1)(nc).

[Bill Sections: 414, 425 thru 427, and 1766]

2. UNEMPLOYMENT ADMINISTRATION

GPR	$15,000,000

Governor: Provide $15,000,000 beginning in 2022-23 for administration of the UI program in a new continuing UI general administration appropriation. Also transfer to the new appropriation $250,000 annually budgeted under current law for UI drug testing, which the bill would repeal. In total, the bill would provide $250,000 GPR in 2021-22 and $15,250,000 GPR in 2022-23 for UI general administration. (This does not include amounts in a separate entry for UI

IT systems modernization.)

Specify that if federal funding is received for the administration of the UI program prior to July 1, 2022, the DOA Secretary may, to the extent permitted under federal law, transfer from the DWD's federal UI administration appropriation, to the general fund, an amount not to exceed the amounts in the schedule under the Department's GPR UI general administration appropriation or the amount of federal funding received, whichever is less. This provision would not apply with respect to certain federal funds received as routine UI administrative grants by the state.

[Bill Sections: 412, 413, and 9250(2)]

3. DRUG TESTING

Governor: Repeal the UI administration controlled substances testing and treatment appropriation and transfer $250,000 GPR to a new continuing appropriation for the general administration of the UI program. Under current law, the $250,000 in base funding is for conducting screenings of UI applicants, testing applicants for controlled substances, and providing substance abuse treatment to applicants and claimants. The unencumbered balance on June 30 of each odd-numbered year must be transferred to the unemployment program integrity fund. These provisions would be deleted under the bill.

Repeal the requirement that DWD establish a UI occupational drug testing program. Under current law, when a claimant applies for UI benefits, DWD determines whether the claimant is an individual for whom suitable work is only available in an occupation that regularly conducts testing. If the claimant's only suitable work is in an occupation that regularly conducts drug testing, as determined by the U.S. Department of Labor (USDOL) and DWD rules, DWD must screen the claimant to determine whether the claimant should be required to submit to a drug test. The results of the initial screening must provide a reasonable suspicion that the claimant has engaged in the unlawful use of controlled substances for the claimant to be required to submit to a drug test. If the claimant refuses to submit to a drug test or tests positive for a controlled substance for which the claimant does not have a valid prescription, the claimant is ineligible for UI benefits. A claimant who tests positive may maintain eligibility for UI benefits for each week in which they are in full compliance with a state-sponsored substance abuse treatment program and a state-sponsored job skills assessment.

Final USDOL rules regarding which occupations can be subject to drug testing took effect November 4, 2019. USDOL's determination of what occupations regularly conduct drug testing includes those occupations for which each state has a factual basis for finding that employers in that state conduct drug testing as a standard eligibility requirement for employing or retaining employees in the occupation. On January 16, 2020, the Wisconsin Unemployment Insurance Advisory Council (UIAC) approved a draft scope statement for the administrative rule related to occupational drug testing. There has been no further action to promulgate rules for the occupational drug testing program.

Repeal all provisions of the UI pre-employment drug testing program. Under current law, an employer may voluntarily submit to DWD the results of a test for the unlawful use of controlled

substances that was conducted on an individual as pre-employment screening or notify DWD that an individual declined to submit to such a test as a condition of employment. If an individual tests positive for controlled substances without a valid prescription for the drug, or if the individual refuses to take the test, there is a rebuttable presumption that the claimant refused to accept suitable work. If an employer reports that an individual refused to submit to a drug test or tested positive for a controlled substance, the claimant would be ineligible for UI benefits until the individual earns wages in subsequent employment equal to at least six times the individual's weekly benefit rate. A claimant who tests positive for a controlled substance as part of a pre-employment screening may maintain eligibility for UI benefits for each week in which the claimant is in full compliance with a state-sponsored substance abuse treatment program and a state-sponsored job skills assessment.

Provide that the effective date of the repeal of the pre-employment drug testing program and the occupational drug testing program would be July 4, 2021, or the first Sunday after publication of the bill, whichever is later. The repeal of the pre-employment drug testing program first applies to initial claims for benefits filed on the Sunday after publication of the bill.

[Bill Sections: 412, 413, 1747, 1748, 1763, 1765, 1767, 1768, 1773, 9350(1), and 9450(1)]

4. WEEKLY BENEFIT RATE

Governor: Increase the maximum weekly benefit rate for eligible UI recipients from $370 to $409 for each week of total unemployment that commences on or after January 2, 2022 but before January 1, 2023.

For each week of total unemployment that commences on or after January 1, 2023, but before January 7, 2024, adjust the maximum weekly benefit rate for eligible UI recipients to $409 or 50% of the state's annual average weekly wage, rounded up to the nearest dollar, whichever is greater.

For each week of total unemployment beginning on or after January 7, 2024, require DWD to set an annual maximum weekly benefit rate that takes effect on the first Sunday in January of each calendar year. Require a maximum weekly benefit rate equal to 75% of the state's annual average weekly wage, rounded up to the nearest dollar, and not less than the rate in effect in the previous calendar year.

Require DWD, on or before June 30 of each year, to calculate from quarterly wage reports for the prior calendar year, the state's annual average weekly wage in covered employment. Exempt the calculation of an annual average weekly wage or a maximum weekly benefit amount from the administrative rule process, consistent with exemptions under current law for fixing or approving certain rates, prices or charges.

The current maximum weekly benefit rate of $370 has been in effect since January 6, 2014. Under current law, the weekly benefit rate equals 4% of the employee's base period wages that were paid during that quarter of the employee's base period in which the employee was paid the highest total wages. If that amount is less than $54, no benefits are payable to the employee. If that

amount is more than the maximum weekly benefit rate, the employee's weekly benefit rate is the maximum rate. Under current law, the minimum weekly benefit rate of $54 requires high-quarter earnings of $1,350 while the maximum weekly benefit rate of $370 requires high-quarter earnings of $9,250. The current minimum weekly benefit rate that an eligible UI recipient could qualify for would remain unchanged at $54.

[Bill Sections: 1755 thru 1757, and 2455]

5. MAXIMUM WEEKLY EARNING THRESHOLD FOR PARTIAL BENEFITS

Governor: Repeal the provision that a claimant may not receive any benefits for a week if the claimant receives or will receive wages and payments totaling more than $500. The provision would take effect the first Sunday that follows the 180th day after publication of the bill, and it would first apply to weeks of unemployment beginning on that effective date.

Under current law, regular UI benefits may be available to individuals who are partially employed during a week but not receiving more than $500 during that week in wages and pay. (The weekly wage threshold does not apply to persons in work-share programs, under which a prorated unemployment benefit is made to employees of employers who voluntarily make an agreement with the state to reduce work hours instead of laying off workers.) Current law applies to wages earned for work performed in that week, amounts treated as wages for that week, sick pay, holiday pay, vacation pay, termination pay, bonus pay, back pay, certain worker's compensation payments, or any combination thereof. To determine the benefit payment received by an individual who is partially employed, the first $30 of wages is excluded and the benefit payment is reduced by 67% of the individual's remaining wages. No benefit payment of less than $5 may be made. The bill would not affect this partial benefits formula.

[Bill Sections: 1758, 1759, 9350(6), and 9450(6)]

6. WAITING PERIOD

Governor: Repeal the one-week waiting period requirement for UI benefits. Under this provision, a claimant for UI benefits would start receiving benefit payments beginning with the individual's first week of eligibility. Specify the provision takes effect the first Sunday after publication of the bill, and first applies to a claimant benefit year beginning on that effective date.

Under current law, the claimant's waiting period is the first week of a claimant's benefit year for which the claimant is otherwise eligible for regular benefits. During a claimant's waiting period, no benefits are payable to the claimant. The current one-week waiting period went into effect for all benefit years starting as of January 1, 2012. A claimant must serve one waiting week per benefit year.

[Bill Sections: 1733, 1741, 1751, 9350(4), and 9450(4)]

7. WORK SEARCH

Governor: Repeal the provisions of 2017 Act 370 that codify in statute work-registration and work-search waiver provisions for certain UI claimants that were previously contained only within the administrative code. Restore DWD's general rulemaking authority, which had been eliminated by Act 370, to establish waivers from work search and registration requirements.

The effective date of the provision would be on the Sunday after publication of the bill, and the provision would first apply to initial claims for benefits filed on that date.

Under current law and the bill, a claimant is ineligible to receive benefits for any week for which there is a determination that the claimant failed to comply with the registration and search requirements, or failed to provide verifications to the Department that the claimant complied with those requirements, unless DWD has waived those requirements.

Work Registration Waivers. Currently, DWD must waive a UI claimant's requirement to register for work if any of the following reasons apply to the claimant:

- *Expectation for Reemployment*. DWD determines there is a reasonable expectation of reemployment of a laid-off claimant by their employer within a period of eight weeks, which may be extended up to an additional four weeks but not to exceed a total of 12 weeks. In determining whether the claimant has a reasonable expectation of reemployment by an employer, the Department must request the employer to verify the claimant's employment status and must also consider certain other factors. These include the history of layoffs by the employer, any information on an anticipated reemployment date, and any recall rights of the employee.

- *Expectation for New Employment.* The claimant has a reasonable expectation of starting employment with a new employer within four weeks and the employer has verified the anticipated starting date with the Department. A waiver under this provision may not exceed four weeks.

- *Union Referral.* The claimant has been laid off from work and routinely obtains work through a labor union referral. If a UI claimant has been laid off from work and routinely obtains work through a labor union referral, all of the following apply for a registration waiver under that allowance: (a) the union is the primary method used by workers to obtain employment in the claimant's customary occupation; (b) the union maintains a record of unemployed members and the referral activities of these members, and the union allows the Department to inspect such records; (c) the union provides, upon the request of the Department, any information regarding a claimant's registration with the union or any referrals for employment it has made to the claimant; (d) prospective employers of the claimant seldom place orders with the public employment office for jobs requiring occupational skills similar to those of the claimant; (e) the claimant is registered for work with a union and satisfies the requirements of the union relating to job referral procedures, and maintains membership in good standing with the union; and (f) the union enters into an agreement with the Department regarding the requirements under this provision.

- *Jury Duty.* The claimant is summoned to serve as a prospective or impaneled juror.

• *Participation in a Training Program.* The claimant is enrolled in and satisfactorily participating in a self-employment assistance program, work-share program, approved training, or another program established under state or federal law, and the program provides that claimants who participate in the program shall be waived by the Department from registration requirements.

• *Department Determination.* The claimant is unable register due to circumstances that the Department determines are beyond the claimant's control.

The bill would authorize DWD to establish work-registration waivers by rule. The bill would not specify conditions under which DWD must grant a registration waiver as the statutes currently do.

Work Search Waivers. Under current law, DWD must waive a UI claimant's requirement to conduct a reasonable search for suitable work and provide verification of least four actions per week that constitute a reasonable search for work if any of the following reasons apply to the claimant:

• *Registration Waiver Criteria.* This includes items described previously for an expectation for reemployment, expectation for new employment, union referral, jury duty, or participation in a training program.

• *Performance of Work.* The claimant performs any work for his or her customary employer.

• *Department Error.* The claimant has not complied with the requirement because of an error made by personnel of the Department.

• *Failure to Display UI Posters.* The claimant's most recent employer failed to post appropriate notice posters as to claiming unemployment benefits as required by the Department by rule, and the claimant was not aware of the work search requirement.

• *Reemployment Services.* The claimant has been referred for reemployment services, is participating in such services, or is not participating in such services but has good cause for failure to participate. A claimant is considered to have good cause if he or she is unable to participate due to any of the following: (a) the claimant is participating in an approved training program as described previously; (b) the claimant is employed; (c) the claimant is attending a job interview; or (d) circumstances that the Department determines are beyond the claimant's control.

DWD may modify the availability of any work search or registration waiver, or establish additional work search or registration waivers, if doing so is necessary to comply with a requirement under federal law or is specifically allowed under federal law.

In general, the bill would authorize DWD to specify work-search waiver provisions by rule. It would retain a statutory waiver for persons with an expectation of reemployment by an employer. From 2004 until June 14, 2015, the Department, by administrative rule, waived a claimant's search requirement if the claimant was laid off but there was a reasonable expectation of reemployment of the claimant by that employer. As of July 14, 2015, the Department altered the administrative rule to provide a work-search waiver only if the claimant is currently laid off from employment

but there is a reasonable expectation that the claimant will be returning to employment within a period of eight weeks, with a possibility of one additional four-week extension. 2017 Act 370 codified in statute the work-search waivers that were previously prescribed by rule of the Department.

[Bill Sections: 1734 thru 1739, 9350(3), and 9450(3)]

8. RECEIPT OF SOCIAL SECURITY DISABILITY INSURANCE PAYMENTS

Governor: Repeal the statutory provisions disallowing UI benefits to a claimant for each week in the entire month in which the person receives a Social Security Disability Insurance (SSDI) payment. Specify that if a monthly SSDI payment is issued to a claimant for UI benefits, the Department must apportion a claimant's monthly SSDI payment as the fraction of the payment attributable to that week and reduce UI benefits otherwise payable to the claimant for a given week on that basis. This provision would not apply to a lump sum SSDI payment, such as a retroactive payment or back pay.

Provide that, if the claimant is receiving SSDI payments, the claimant must, in the manner prescribed by DWD, report to the Department the amount of the SSDI payments. Certain existing provisions relating to the rounding of benefits and calculating benefit payment deductions to payments would continue to apply under this provision.

[Bill Sections: 1740, 1752 thru 1754, and 1760 thru 1762]

9. SUBSTANTIAL FAULT

Governor: Repeal provisions that specify that an employee terminated for substantial fault is ineligible to receive UI benefits.

Under current law, DWD uses a two-tier standard to determine whether claimants who are discharged qualify for UI benefits. A claimant will be disqualified if they are discharged for misconduct or for substantial fault connected with the employment. If it cannot be determined that the employee was discharged for misconduct, a disqualification under substantial fault is considered by the Department. An employee who is discharged for misconduct or substantial fault connected with his or her employment will have total entitlement for benefits reduced with respect to wages from the discharging employer and is ineligible for benefits based on work for other employers unless he or she requalifies. To requalify, seven weeks must elapse since the end of the week in which the discharge occurs and the employee must earn wages in subsequent covered employment equal to at least 14 times the weekly benefit rate he or she would have received if termination had not occurred. Under the bill, a claimant could still be disqualified from benefits if they are discharged for misconduct connected with the employment, but not for substantial fault.

Under current law, the definition of "substantial fault" includes acts or omissions of an employee over which the employee exercised reasonable control and that violate the employer's reasonable requirements of the employee's employer but does not include: (a) one or more minor

infractions of rules, unless an infraction is repeated after the employer warns the employee about the infraction; (b) one or more inadvertent errors made by the employee; or (c) any failure of the employee to perform work because of insufficient skill, ability, or equipment. The bill would delete the definition of substantial fault, which would also be deleted for the purposes of worker's compensation, as described in a separate entry.

Repeal the provision that authorizes the Department to place certain benefit charges related to substantial fault as an eligible charge against the UI trust fund's balancing account.

[Bill Sections: 1742, 1769, 9350(5) and 9450(5)]

10. QUIT EXCEPTION AND CANVASSING PERIOD

Governor: Extend the period that a claimant for UI benefits can restrict their availability for work based on the claimant's skill level and recent wage history. Extend the period that a claimant for UI benefits, that takes a job that they could have refused or is not suitable work, could quit that job and remain eligible for UI benefits.

Canvassing Period. Under current law, if a claimant fails, without good cause, to accept suitable work when offered, the claimant is ineligible to receive benefits until the claimant re-establishes eligibility by earning wages in subsequent covered employment that is equal to six times the claimant's weekly benefit rate. There are two definitions of suitable work under current law. In the first six weeks after the claimant became unemployed, a period that is also referred to a claimant's "canvassing period," suitable work means: (a) the work does not involve a lower grade of skill than one or more of his or her most recent jobs; and (b) the hourly wage for the work is at least 75% of what the employee earned on the highest paying of his or her most recent jobs. Beginning in the seventh week after the claimant became unemployed, suitable work means any work that the claimant is capable of performing, regardless of whether the claimant has any relevant experience or training, that pays wages that are above the lowest quartile of wages for similar work in the labor market area in which the work is located, as determined by DWD. The bill would lengthen a claimant's canvassing period from six weeks to 10 weeks.

Quit Exception. Under current law, if a claimant for UI benefits terminates ("quits") employment with a covered employer, and the claimant’s reason for quitting is not within any of the exceptions under current law, the claimant is ineligible to receive benefits until the claimant requalifies by earning wages after the week in which the termination occurs equal to at least six times the claimant's weekly benefit rate. Under one such exception, the claimant remains eligible to collect UI benefits if a claimant quits his or her job and both of the following apply: (a) the claimant accepted work that was not suitable work under the UI law, and which the claimant could have refused with good cause, or that does not meet labor standards with regards to wages, hours or other conditions; and (b) the claimant terminated the work within 30 calendar days after starting the work. Under the bill, this exemption would apply if the claimant terminated that work within 10 weeks after starting the work, instead of 30 days under current law.

Specify that both the canvassing period and quit exception provisions would first apply to UI benefit determinations on the first Sunday of the second month beginning after publication of

the bill.

[Bill Sections: 1744, 1749, 1750, 9350(11), 9350(12), 9450(11), and 9450(12)]

11. VOLUNTARY TERMINATION

Governor: Provide that, if a prospective claimant's spouse was required by his or her employing unit to relocate to a place to which it is impractical for the claimant to commute, the voluntary termination exception for UI benefits would apply to that claimant. Under current law, if an employee voluntarily terminates (quits) employment, the employee is ineligible to receive UI benefits until the employee earns wages after the week in which the voluntary termination occurs equal to at least six times the employee's weekly benefit rate. However, an employee is exempt from the requirement if the employee's spouse is a member of the U.S. Armed Forces on active duty. The bill would expand eligibility for the voluntary termination exemption if the employee's spouse were required by his or her employing unit to relocate to a place to which it is impractical for the employee to commute.

The effective date of the provision would be the first Sunday of the second month after publication of the bill. The provision would apply to UI benefit determinations beginning on the effective date of the provision.

[Bill Sections: 1745, 1746, 9350(2), and 9450(2)]

12. MISCLASSIFICATION PENALTIES

Governor: Eliminate maximum penalty amounts and limitations regarding the type of employer that can be assessed penalties for misclassifying employees, coercion of employees and providing false information.

False Information. Under current law, employers engaged in construction projects or engaged in the painting or drywall finishing of buildings or other structures who knowingly and intentionally provides false information to DWD for the purpose of misclassifying or attempting to misclassify as a nonemployee any individual who is an employee of the employer shall, for each incident, be assessed a penalty of $500 for each employee who is misclassified, but not to exceed $7,500 per incident.

The bill would repeal the $7,500 penalty maximum, and specify that for each act occurring before the date of the first determination of a violation, the employer is assessed a penalty of $500 for each employee who is misclassified. For each act occurring after the date of the first determination of a violation, the bill would impose a penalty of $1,000 for each employee who is misclassified. The bill would apply this penalty provision to all covered employers.

Coercion. Under current law, any employer engaged in construction projects or engaged in the painting or drywall finishing of buildings or other structures who, through coercion, requires an individual to adopt the status of a nonemployee shall be assessed a penalty of $1,000 for each individual so coerced, but not to exceed $10,000 per calendar year.

The bill would repeal the $10,000 penalty maximum, and specify that for each act occurring before the date of the first determination of a violation, the employer is assessed a penalty in the amount of $1,000 for each individual so coerced. For each act occurring after the date of the first determination of a violation, the bill would assess a penalty of $2,000 for each individual so coerced. The bill would apply this penalty provision to all covered employers.

[Bill Sections: 1775 thru 1778]

13. ELECTRONIC REPORTING AND TRANSACTIONS

Governor: Require DWD to use various means of electronic reporting and payments for multiple UI program activities involving employers and claimants. In general, electronic communications and transactions would be required, unless a person could demonstrate "good cause" for not using electronic systems. The bill would require DWD to promulgate administrative rules to specify what would constitute good cause.

Electronic Interchange. Require DWD to provide a secure means of electronic interchange with employing units, claimants, and other persons. The electronic interchange would be required for transmission or receipt of any document specified by DWD related to the administration of UI, in lieu of any other means of submission or receipt specified in Wisconsin's UI laws. Further, the bill would permit the use of the use of electronic records and electronic signatures for any document specified by DWD that is related to the administration of the state's UI program. Use of electronic record submittals and electronic signatures would be subject to current DOA rules concerning the use of electronic records. DWD would be required to submit a notice to the Legislative Reference Bureau for publication in the Wisconsin Administrative Register indicating the date upon which DWD is able to implement the provision regarding the electronic interchange, and this provision would take effect on the date specified in the notice published in the Wisconsin Administrative Register.

Under current law, DWD is permitted, but not required, to provide a secure means of electronic interchange between itself and employing units, claimants, and other persons for the transmission or receipt of UI-related documents as specified by the Department.

Determination of Contributions. Require DWD to provide electronically a means whereby an employer that files employment and wage reports electronically may determine the amount of UI tax contributions due for payment by the employer for each quarter. Under current law, DWD is not required to provide this electronic option.

Contribution Reports. Require that each employer that does not use an employer agent to file UI tax contribution reports must file contribution reports electronically in the manner and form prescribed by DWD, unless the employer demonstrates good cause for not being able to file its reports electronically. Under current law, the requirement to file reports electronically is limited to employers of 25 or more employees that do not use an employer agent to file contribution reports; the bill would repeal the 25-employee threshold.

Employer Contributions. For employer UI tax obligations determined as of June 30 of a

given year, require each employer to pay all UI tax contributions by means of electronic funds transfer beginning with the next calendar year, unless the employer demonstrates good cause for not being able to pay contributions by electronic funds transfer. Under current law, the requirement to pay UI tax contributions by means of electronic funds transfer is limited to those employers whose net total UI tax contributions paid or payable for any 12-month period ending on June 30 are at least $10,000; the bill would repeal this minimum specified level of contributions.

Quarterly Wage Reports. Specify that each employer that does not use an employer agent must file UI quarterly wage reports electronically in the manner and form prescribed by DWD, unless the employer demonstrates good cause for not being able to file reports electronically. Under current law, the requirement to file reports electronically is limited to employers of 25 or more employees that do not use an employer agent to file contribution reports. The bill would repeal the 25-employee threshold.

Except for the electronic interchange implementation described previously, these provisions would take effect on the first Sunday after publication.

[Bill Sections: 1764, 1770 thru 1772, 1774, 9150(2), 9450(8), and 9450(9)]