



Legislative Fiscal Bureau

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October 9, 2023

TO: Members
Senate Committee on Economic Development and Technical Colleges

FROM: Bob Lang, Director

SUBJECT: Summary of September 2023 Special Session Senate Bill 1

Our office has prepared this summary of the provisions of September 2023 Special Session Senate Bill 1. Each of the items is summarized in the following sections of the memorandum and a table is attached showing the fiscal effect of the bill.

1. UW-Madison Engineering Building

Enumerate the UW-Madison engineering replacement building/computer-aided engineering facility demolition project as part of the 2023-25 state building program. The project would be enumerated with a project budget of \$347,336,000, including \$197,336,000 of segregated revenue from the capital improvement fund and \$150,000,000 of gifts, grants, and other receipts. The bill would transfer \$197,336,000 from the general fund to the capital improvement fund in the 2023-25 biennium to fund this project and authorize the expenditure of those moneys.

[Bill Sections: 16, 92, 93(1), and 94(11)]

2. Moneys Transferred to the Capital Improvement Fund

Clarify the provisions of 2023 Act 19 that moneys transferred from the general fund to the capital improvement fund can be used to: (a) fund projects in the 2023-25 state building program; (b) fund modifications to prior building programs as specified in Act 19; and (c) offset increases in building project costs caused by inflation. The bill would also clarify that all moneys not used for the purposes mentioned above would be transferred back to the general fund.

[Bill Sections: 1 and 2]

3. Nurse Educators

Provide \$5,000,000 GPR annually for the nurse educators program above base level funding of \$5,000,000. 2021 Act 58 provided \$5,000,000 GPR in 2022-23 in the Joint Committee on Finance supplemental appropriation which was released to the Higher Educational Aids Board (HEAB) by the Committee for the Nurse Educators program. The Act specified that the nurse educator program applies to students and graduates of institutions of higher education, defined as private, non-profit colleges located in Wisconsin, colleges within the Wisconsin Technical College System (WTCS), and UW System institutions or campuses. The program is required to provide: (a) fellowships to students who enroll in programs for degrees in doctor of nursing practice, doctor of philosophy in nursing, or master of science in nursing in an institution of higher education; (b) educational loan repayment assistance to recruit and retain faculty for nursing programs in an institution of higher education; and (c) postdoctoral fellowships to recruit faculty for nursing programs in an institution of higher education. Individuals who receive fellowships or loan repayment assistance are required to teach for three consecutive years in a nursing program at an institution of higher education.

[Bill Section: 94(8)]

4. Wisconsin Grants - UW System

Increase funding under HEAB for Wisconsin Grants for UW System students by \$3,094,800 GPR in 2023-24 and \$6,344,300 GPR in 2024-25. When calculated as a change to the prior year, there would be an increase of 5% in 2023-24 over 2022-23, and an increase of 5% in 2024-25 over 2023-24. Annual base level funding for this program is \$61,894,100.

[Bill Section: 94(3)]

5. Wisconsin Grants - Private Nonprofit Colleges

Increase funding under HEAB for Wisconsin Grants for private, nonprofit college students by \$1,425,300 GPR in 2023-24, and \$2,921,800 GPR in 2024-25. When calculated as a change to the prior year, there would be an increase of 5% in 2023-24 over 2022-23 and an increase of 5% in 2024-25 over 2023-24. Annual base funding for this program is \$28,504,600.

[Bill Section: 94(2)]

6. Wisconsin Grants - Technical Colleges

Increase funding under HEAB for Wisconsin Grants for technical college students by \$1,148,600 GPR in 2023-24 and \$2,354,700 GPR in 2024-25. When calculated as a change to the prior year, there would be an increase of 5% in 2023-24 over 2022-23, and an increase of 5% in 2024-25 over 2023-24. Annual base level funding for the program is \$22,971,700.

[Bill Section: 94(4)]

7. Wisconsin Grants - Tribal Colleges

Increase funding under HEAB of \$24,100 PR in 2023-24 and \$49,400 PR in 2024-25 for Wisconsin Grants for tribal college students. When calculated as a change to the prior year, there would be an increase of 5% in 2023-24 over 2022-23 and an increase of 5% in 2024-25 over 2023-24. Annual base funding for the program is \$481,800. Wisconsin Grants for tribal college students are funded with tribal gaming revenue.

[Bill Section: 94(5)]

8. University of Wisconsin System

Provide \$22,100,000 GPR in 2023-24 and \$44,300,000 GPR in 2024-25 in UW System's general operations appropriation.

[Bill Section: 94(6)]

9. Wisconsin Technical College System

Increase the amount of funding in the appropriation for state aid to technical colleges by \$20,500,000 GPR in each year of the 2023-25 biennium. Under 2023 Act 19 (the 2023-25 state budget), state aid to technical colleges is \$106,383,400 in 2023-24 and \$109,574,900 in 2024-25.

[Bill Section: 94(7)]

10. Grow Your Own Educator Programs

Provide \$5,000,000 GPR beginning in 2024-25 for a new grant program, under the Department of Public Instruction, to reimburse school districts and independent charter schools for costs associated with programs and initiatives to build the educator workforce in Wisconsin schools. Define a "grow your own program" as a program to encourage individuals to pursue a career in teaching or to facilitate teacher licensure. Funds could be used on activities such as paying the costs associated with current staff completing education necessary to obtain licensure, partnering with community organizations to attract and develop new teachers, support for career pathways using dual enrollment, incentives for paraprofessionals to gain licensure, and supporting student organizations that encourage high school students to pursue careers in teaching.

[Bill Sections: 5, 84, and 86]

11. Stipend Programs for Future Educators, Librarians, and Cooperating Teachers

Provide \$11,483,000 GPR beginning in 2024-25 to create four new appropriations, under the Department of Public Instruction, to provide stipend payments to support future educators, future librarians, and cooperating teachers that supervise those individuals, including: (a) \$2,400,000 for

individuals participating in the Wisconsin Improvement Program (WIP); (b) \$7,000,000 for individuals completing a student teaching requirement as part of a DPI-approved educator preparation program; (c) \$2,033,000 for cooperating teachers overseeing student teachers; and (d) \$50,000 for individuals pursuing a degree in library science and completing an internship in a public library.

Semester-long stipends would be equal to \$9,600 for WIP participants, \$2,500 for student teachers and library interns, and \$1,000 for cooperating teachers involved in supervising student teachers. Specify that DPI could promulgate rules to implement and administer the programs.

Under current law, WIP provides prospective teachers with one-semester internships under the supervision of licensed teachers.

[Bill Sections: 4, 6 thru 9, 30, 81 thru 83, and 85]

12. Health Care Workforce Innovation Grants

Provide \$100,000,000 GPR in 2023-24 in a new continuing appropriation under the Department of Workforce Development (DWD) for health care workforce innovation grants. Require DWD to establish and operate a program to provide grants to regional organizations to address their region's health care-related workforce challenges that arose during or were exacerbated by the COVID-19 pandemic.

Require DWD to receive and review applications for these grants and prescribe the form, nature, and extent of the information that must be contained in a grant application. Specify that in addition to duties relating to grant applications, DWD would have all other powers necessary and convenient to implement these provisions, including the power to audit and inspect the records of grant recipients.

[Bill Sections: 3, 13, and 77]

13. Health Care Workforce Opportunity Grants

Provide \$8,500,000 GPR in 2023-24 and in 2024-25 in a new continuing appropriation under DWD for health care workforce opportunity grants. Require DWD to establish and administer a program to make grants to local workforce development boards to assist individuals whose employment status was negatively affected by the COVID-19 pandemic and whose employment status has not improved. Require DWD to target individuals employed or seeking employment in health care-related fields and individuals who are currently ineligible for services under the federal Workforce Innovation and Opportunity Act.

[Bill Sections: 3, 14, and 78]

14. Graduate Medical Training

Provide \$1,590,200 (\$627,800 GPR and \$962,400 FED) in 2023-24 and \$1,619,500 (\$639,900 GPR and \$979,600 FED) in 2024-25 to increase funding the Department of Health Services (DHS) distributes to hospitals to create new accredited graduate medical training programs and to support additional positions in existing training programs in hospitals that serve rural and underserved communities. In addition, increase, from \$225,000 to \$450,000 the maximum GPR funding DHS could provide to a particular hospital in any state fiscal year, and increase from \$75,000 to \$150,000 the maximum GPR funding DHS could provide to fund a given position in a graduate medical training program in any fiscal year.

Under current law, residency positions must be in one of the following disciplines to qualify for grant funding: (a) family medicine; (b) pediatrics; (c) psychiatry; (d) general surgery; and (e) internal medicine. Hospitals in the City of Milwaukee are ineligible for grants to establish new residency programs. Under 2023 Act 19, \$3,673,800 GPR in 2023-24 and \$3,679,900 GPR in 2024-25 is budgeted for these grants.

[Bill Sections: 88 and 94(15)]

15. WisCaregiver Careers

Increase, by \$6,000,000 GPR, the amount appropriated to DHS in 2024-25 for a workforce development program to train and recruit individuals to work as nurse aides in nursing homes, commonly known as the WisCaregiver Careers program.

2023 Wisconsin Act 19 provided \$2,000,000 GPR in 2024-25, on a one-time basis, for this purpose.

[Bill Section: 94(1)]

16. Health Care Provider Innovation Grants

Increase: (a) the DHS grants for community programs appropriation by \$7,225,000 GPR in 2023-24 and \$14,500,000 GPR in 2024-25, and (b) the DHS contract administration appropriation by \$225,000 GPR in 2023-24 and \$500,000 GPR in 2024-25 to fund health care provider innovation grants and to support state administration and evaluation of the grant program.

Further, authorize DHS to distribute not more than \$14,500,000 GPR annually, beginning in 2024-25, as grants to health care providers and long-term care providers to implement best practices and innovative solutions to increase worker recruitment and retention. In 2023-24, the bill would authorize the Department to distribute not more than \$7,225,000 GPR for this purpose.

Finally, amend the allowable use of funds from the DHS contract administration appropriation to include the state administration and evaluation of this program.

[Bill Sections: 10, 31, 93(9), 94(16), and 94(17)]

17. In-Person Appearances during State Public Health Emergency

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

[Bill Section: 91(part)]

18. Qualified Treatment Trainee Grants

Provide \$1,576,600 GPR in 2024-25 to increase funding DHS distributes to support treatment programs. Under Act 19, \$750,000 GPR is budgeted annually to support these grants, which are used to support the employment of qualified treatment trainees (QTTS) in behavioral health fields. In addition, repeal a provision that requires DHS to distribute a total of \$750,000 in grants annually from the appropriation that funds these grants and any available federal funds, to support treatment programs. Grantees may use these funds to support supervision, training, and resources, including salaries, benefits, and other related costs.

[Bill Sections: 87 and 94(10)]

19. Child Care Quality Improvement Program

Provide \$81,389,400 GPR in 2023-24 and \$222,719,300 GPR in 2024-25 and 4.0 GPR positions beginning in 2023-24 for the Department of Children and Families (DCF) to fund payments to child care providers under a child care quality improvement program. Under the program, DCF would make monthly payments and monthly per-child payments to certified or licensed child care providers and child care programs established or contracted for by a school board. Create a GPR sum certain appropriation for this purpose.

Increase the DCF federal block grant appropriation for aids to individuals or organizations by \$19,000,000 FED in 2023-24 and 2024-25 and increase the TANF allocation for child care quality programs by corresponding amounts to support the child care quality improvement program.

Authorize DCF to promulgate emergency rules without the finding of an emergency to administer the child care quality improvement program. Specify that these rules could include establishing eligibility requirements, payment amounts, and requirements on how recipients may spend grant awards.

[Bill Sections: 3, 11, 33, 37, 93(7), and 94(14)]

20. Child Care Partnership Grant Program

Provide \$11,198,000 GPR annually, beginning in 2023-24, for DCF to establish a grant

program for businesses that provide or wish to provide child care services for their employees. Specify that grantees could use grant funds to reserve child care placements for local business employees, pay child care tuition, and other costs related to child care.

Require a business awarded a grant to provide matching funds equal to at least 25% of the grant amount. Define "business" as any organization or enterprise operated for profit or a nonprofit corporation. "Business" would not include a governmental entity.

Authorize DCF to promulgate emergency rules without the finding of an emergency to administer the grant program, including to determine eligibility for a grant.

Increase the funding allocated for child care quality programs under the temporary assistance for needy families (TANF) block grant by amounts equal to the new appropriation for the child care partnership grant program. (A technical correction would be needed to include this appropriation as one of the appropriations pooled together for TANF-related programs.)

[Bill Sections: 3, 12, 32, and 36]

21. Child Care Offset

Reduce funding budgeted in the Joint Committee on Finance program supplements appropriation by \$15,000,000 GPR in 2023-24 to offset the funding increase in the bill for the child care partnership program, described above. Under Act 19 (the 2023-25 biennial budget act), this funding had been provided in the program supplements appropriation to fund a program for child care providers that would be administered by the Wisconsin Economic Development Corporation (WEDC). However, the \$0 GPR continuing appropriation for WEDC created under Act 19 for this purpose would not be repealed or otherwise modified by the bill.

[Bill Section: 94(18)]

22. Child Care Administration and Licensing

Increase the federal block grant appropriation for DCF operations by \$312,000 FED in 2023-24 and by \$624,000 FED in 2024-25 and increase the TANF funding allocated for child care administration and licensing by corresponding amounts to fund child care state administration and licensing activities.

In addition, delete an obsolete provision limiting DCF from increasing reimbursement rates under the Wisconsin Shares child care subsidy program prior to June 30, 2013. Finally, make a technical change to correct a cross reference.

[Bill Sections: 34, 35, and 94(13)]

23. Rehired Annuitants

Specify that a Wisconsin Retirement System (WRS) participant who retires on or after the effective date of the bill, would have a break-in-service requirement of 30 days between termination of employment and again working for a WRS employer (as an employee or contractor) to qualify for an annuity or lump sum payment. Further, specify that a rehired annuitant, including an annuitant who retired between July 2, 2013, and the effective date of the bill, could provide employee services without suspending annuity payments and without resuming participation in the WRS if: (a) at the time of terminating employment, the individual does not have an agreement to return to employment or enter into a contract with a WRS employer; and (b) the individual elects on a form provided by the Department of Employee Trust Funds (ETF) to not become a participating WRS employee. Specify that, no later than 60 days after the effective date of the bill, a WRS participant who already has a suspended annuity could make an irrevocable election to continue the suspension by notifying ETF on a form provided by the agency. In addition, eliminate obsolete statutory provisions relating to rehired annuitants hired in critical positions, which applied only during the public health emergency declared by the Governor on March 12, 2020.

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

[Bill Sections: 19 thru 29, 91(part), and 93(8)]

24. Health Care Apprenticeships

Provide \$801,400 GPR in 2023-24 and \$135,200 GPR in 2024-25 and 1.0 GPR position beginning in 2023-24 in the general program operations appropriation for the Department of Workforce Development (DWD). Specify that this would be used to conduct outreach to stakeholders to develop new apprenticeship pathways related to health care.

[Bill Section: 94(9)]

25. Transfer to Family and Medical Leave Benefits Insurance Trust Fund

Create a separate nonlapsible trust fund designated as the family and medical leave benefits insurance trust fund and transfer \$243,413,400 in the 2023-25 biennium from the general fund to that fund.

[Bill Sections: 17, 18, and 94(12)]

26. Family and Medical Leave Benefits Insurance Program

Provide \$65,767,800 SEG and 45.0 SEG positions in 2023-24 and \$177,645,600 SEG and 198.0 SEG positions in 2024-25 for the administration, enforcement, and initial benefit payments for a family and medical leave benefits insurance program. The funding in 2024-25 includes \$18,779,000 for administrative expenses and an estimated \$158,866,600 for initial benefit payments. These moneys would be provided from the family and medical leave benefits insurance trust fund, to a newly created biennial appropriation for administrative expenses of the family and medical leave benefits insurance program and to a newly created sum sufficient appropriation to pay for the payment of benefits to covered individuals in the family and medical leave benefits insurance program.

Eligibility for Benefits. Provide that a covered individual who is on family leave or medical leave is eligible to receive family or medical leave insurance benefits in the amount and duration specified under the bill. Require that, to receive family or medical leave insurance benefits, a covered individual must file a claim for those benefits within the time and in the manner that the Department of Workforce Development (DWD) prescribes by rule. Specify that, on receipt of a claim for benefits, DWD may request from the individual's employer or from the self-employed individual any information necessary for DWD to determine the individual's eligibility for those benefits and the amount and duration of those benefits. Require the employer or self-employed individual to provide such information to DWD within the time and in the manner prescribed by the Department by rule. Require DWD to provide benefits to all covered individuals determined to be eligible to receive family or medical leave insurance benefits.

Election by a Self-Employed Individual. Provide that a self-employed individual or small employer may elect to be a covered under this program by filing a written notice of election with DWD in a form and manner prescribed by the Department by rule. Specify that an initial election becomes effective on the date on which the notice of election is filed, and must be for a period of not less than three years, and may be renewed for subsequent one-year periods by the filing of a written notice with DWD of the intent to continue his or her coverage. Provide that a self-employed individual or small employer who elects coverage may withdraw that election no earlier than three years after the date of the initial election, or at such other times as the Department may prescribe by rule, by providing notice of that withdrawal to DWD not less than 30 days before the expiration date of the election.

Amount of Benefits. Require that the amount of family or medical leave insurance benefits payable for a week be based upon the covered individual's average weekly earnings, as follows: (a) for the amount of the covered individual's average weekly earnings that are less than 50% of the state annual median wage in the calendar year before the covered individual's application year, 90% of the covered individual's average weekly earnings; (b) for the amount of the covered individual's average weekly earnings that are more than or equal to 50% of the state annual median wage in the calendar year before the covered individual's application year, 50% of the covered individual's average weekly earnings.

Duration of Benefits. Specify that the maximum number of weeks for which family or medical leave insurance benefits are payable in an application year is 12 weeks. Provide that a covered

individual may be paid these benefits continuously, or at the option of the covered individual, intermittently.

Employer Exemption from Participation in Paid Family and Medical Leave Benefits Insurance Program. Provide that if an employer provides family and medical leave benefits that are identical to or more generous than benefits provided under the paid family and medical leave benefits insurance program, the employer may elect to not participate in the program. Specify that if DWD grants such an exemption, the employer is required to pay benefits that are at least identical to benefits under the program, and an employee is entitled to be paid those benefits. Require an employer that elects to not participate in the program to request an exemption from DWD in writing, in the manner prescribed by the Department. An exemption from participation would not effective until approved by the Department in writing. Allow DWD to grant a written exemption from participation to an employer who complies with statutes and rules governing the program. Provide that DWD may withdraw its written exemption order if DWD determines that an employer is not providing paid family and medical leave benefits to employees that are at least identical to those provided under the program.

Specify that if an employee believes that his or her employer, that has an exemption, has violated the employee's right to paid family and medical leave benefits identical to those provided under this program, the employee may file a complaint with DWD alleging the violation, and the Department must process the complaint through an administrative proceeding in the same manner as complaints filed under current family or medical leave law. If the Department finds the employer to be in violation, DWD may order the employer to take action to remedy the violation, including providing the paid family and medical leave benefits, and, paying reasonable actual attorney fees to the employee. After the completion of an administrative proceeding, including judicial review, an employee or the Department may bring a civil action in circuit court, as provided under current law, against an employer to recover damages caused by a violation of these provision. Require DWD to promulgate rules to implement the employer exemption provisions.

Federal Tax Treatment of Benefits. With respect to the federal income taxation of family or medical leave insurance benefits, require DWD to do all of the following: (a) at the time an individual files a claim for those benefits, advise the individual that those benefits may be subject to federal income taxation, that requirements exist under federal law pertaining to estimated tax payments; (b) allow the individual to elect to have federal income tax deducted and withheld from the individual's benefit payments, allow the individual to change that election not more than one time in an application year, and deduct and withhold that tax in accordance with the individual's election as provided under federal law; (c) upon making a deduction, transfer the amount deducted from the family and medical leave insurance trust fund to the Internal Revenue Service; and (d) in deducting and withholding federal income taxes from an individual's benefit payments, follow all procedures specified by the IRS pertaining to the deducting and withholding of federal income tax.

Family and Medical Leave Insurance Trust Fund. Require DWD to determine the amount of the required contribution by each employee, self-employed individual who elects coverage, and each employer. Specify that the required contribution be based on the employee's wages or the self-employed individual's earnings, and be equally shared between each employee and the employee's employer.

Require each employer to withhold from the wages of its employees the amount determined by DWD. Require the Department to create rules to establish procedures for filing wage reports and collecting the contributions withheld by employers and employer-required contributions. Specify that DWD may utilize the unemployment insurance (UI) quarterly wage reports submitted by employers as required under current law, in lieu of separate contribution reports and may utilize the procedures for collecting contributions that apply to the collection of contributions to the UI trust fund. Require DWD to create rules to provide for a right to a hearing in cases involving the liability of employers for required contributions. Require that Department decisions be subject to the rights and procedures specified for contested cases under current law for administrative procedure and review.

Require DWD to collect contributions from self-employed individuals pursuant to procedures established by the Department, and deposit contributions received in the family and medical leave benefits insurance trust fund. Require DWD to use moneys deposited in the trust fund to pay benefits, to refund amounts erroneously paid by employers, and to pay for the administration of program, and for no other purpose.

Denial of Claims; Overpayments. Require DWD to create rules providing for a right to a hearing in cases of disputes involving an individual's eligibility for benefits or status as a covered individual. Require that Department decisions be subject to the rights and procedures specified for contested cases under current law for administrative procedures and review. Specify that DWD may prescribe procedures in conjunction with any rules promulgated for administrative proceedings under the existing family or medical leave law.

Specify that if DWD pays family or medical leave insurance benefits to an individual erroneously or as a result of willful misrepresentation, the individual's liability to reimburse the fund for the overpayment may be set forth in a determination that is subject to review. To recover an overpayment to a covered individual that is not otherwise repaid or the recovery of which has not been waived, provide that DWD may recoup the amount of the overpayment by, in addition to its other remedies, deducting the amount of the overpayment from benefits the individual would otherwise be eligible to receive. Provide that DWD may establish other procedures for recovering overpayments and may utilize procedures under current UI law, including DWD's remedies for collecting UI benefit overpayments under current law, subject to rules created by the Department. Specify that the Department may not collect any interest on any benefit overpayments, and that DWD may prescribe procedures for waiver of overpayments.

Prohibited Acts and Enforcement. Prohibit any person from interfering with, restraining, or denying the exercise of any right provided under the family or medical leave benefits insurance program. Specify that no person may discharge or otherwise discriminate against any person for exercising any right provided, opposing a practice prohibited, filing a complaint or attempting to enforce any right provided, or testifying or assisting in any action or proceeding to enforce any right provided under the family or medical leave benefits insurance program. Specify that no collective bargaining agreement or employer policy may diminish or abridge an employee's rights as provided under the program. Provide that any agreement purporting to waive or modify an employee's rights under this provision is void as against public policy and unenforceable.

Provide that any person who believes that his or her rights have been interfered with, restrained, or denied in violation of the above prohibited acts, or that he or she has been discharged or otherwise discriminated against in violation, within 30 days after the violation occurs or the person should reasonably have known that the violation occurred, whichever is later, file a complaint with DWD alleging the violation, and that the Department must process the complaint in the same manner as complaints filed under the family or medical leave law. Specify that if DWD finds that an employer has violated any of the prohibited acts, the Department may order the employer to take action to remedy the violation, including providing the requested family leave or medical leave, reinstating an employee, providing back pay accrued not more than two years before the complaint was filed, and paying reasonable actual attorney fees to the complainant. After the completion of this administrative enforcement proceeding, including judicial review, an employee or the Department may bring a civil action in circuit court against an employer to recover damages caused by a violation of a prohibited act.

Administration. Require DWD to administer the family and medical leave benefits insurance program, and to do all of the following: (a) establish procedures and forms for the filing of claims for benefits; (b) establish procedures and forms for collecting contributions from self-employed individuals; (c) promulgate rules to implement the program; (d) use information sharing and integration technology to facilitate the exchange of information as necessary for DWD to administer the program; (e) submit a report by September 1 of each year, to the Governor, the Joint Committee on Finance, and the appropriate standing committees of the Legislature on the program. Require the report to include the projected and actual rates of participation in the program, the premium rates for coverage under the program, and the balance in the family and medical leave benefits insurance trust fund.

Records. Specify that the records made or maintained by DWD in connection with the administration of program are confidential, and must be open to public inspection or disclosure only to the extent that the Department allows in the interest of the program. Specify that the Department may provide records made or maintained by DWD in connection with the administration of the program to any governmental unit, corresponding unit in the government of another state, or any unit of the federal government. Specify that no person or governmental unit may allow inspection or disclosure of any record provided by the Department unless DWD authorizes the inspection or disclosure.

Provide that, upon request of the Department of Revenue (DOR), DWD may provide information, including social security numbers, concerning covered individuals to DOR for the purpose of administering state taxes, identifying fraudulent tax returns, providing information for tax-related prosecutions, or locating persons or the assets of persons who have failed to file tax returns, who have underreported their taxable income, or who are delinquent debtors. Specify that DOR may not allow inspection or disclosure of any record provided by the DWD, unless DWD authorizes the inspection or disclosure.

Benefit Amount Adjustment. Provide that, on April 1 of each year, DWD may adjust the maximum weekly benefit payment to 90% of the state average weekly earnings, which becomes effective on October 1 of that year, and require the Department to annually publish the adjusted amount in the Wisconsin Administrative Register.

Proper Notice. Require each employer to post, on its website and 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 program and any annual adjustment to the weekly benefit amount. Specify that an employer in violation of the proper notice provision must forfeit not more than \$100 for each violation.

Definitions. Define "application year" to mean the 12-month period beginning on the first day of the first calendar week for which family or medical leave insurance benefits are claimed by a covered individual. Define "average weekly earnings" to mean one-thirteenth of the wages paid to an employee during the last completed calendar quarter prior to the covered individual's date of eligibility for benefits under this section and includes all sick, holiday, vacation, and termination pay that is paid directly by an employer to an employee at the employee's usual rate of pay during his or her last completed calendar quarter as a result of employment for an employer and any total or partial disability payments under Wisconsin's worker's compensation law, or a federal law that provides for payments on account of a work-related injury or illness. For self-employed individuals, define "average weekly earnings" to mean one fifty-second of the gross income reported as income to the federal Internal Revenue Service in the most recent tax year in which the individual filed taxes prior to the individual's date of eligibility for benefits under this provision.

Define "covered individual" to mean an employee who has been employed by the same employer for more than 52 consecutive weeks and who worked for the employer for at least 680 hours during the preceding 52-week period, or a self-employed individual or an employee of a small employer, who elects coverage under the self-employed individual provision of the bill, regardless of whether the individual is employed or unemployed at the time the individual files an application for benefits. Define "self-employed individual" to mean a sole proprietor, partner of a partnership, member of a limited liability company, or other individual engaged in a vocation, profession, or business for himself or herself and not for an employer. Define "small employer" as a person involved in any activity or business in the state employing fewer than 50 individuals on a permanent basis.

Define "family leave" to mean an individual's leave from employment, self-employment, or availability for employment: (a) for the birth of the employee's natural child, if the leave begins within 16 weeks of the child's birth; (b) for the placement of a child with the employee for adoption or as a precondition to adoption under current law, if the leave begins within 16 weeks of the child's placement; (c) to care for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling, with a serious health condition; (d) for any qualifying exigency, as determined by DWD by rule, arising from the spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee being on covered active duty or having been notified of an impending call or order to covered active duty; (e) to fill an unforeseen or unexpected short-term gap in childcare, as determined by DWD by rule, for the employee's child, grandchild, or sibling; (f) to care for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling, that is in medical isolation; (g) to address issues of the employee or the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling related to being the victim of domestic abuse, sexual abuse, or stalking; or (h) to serve as a bone marrow or organ donor.

Define "medical leave" to mean leave from employment, self-employment, or availability for

employment for an employee who is in medical isolation or has a serious health condition which 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 “state annual median wage” to mean the median hourly wage for all occupations in this state in a calendar year, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor, multiplied by 2,080. Define “family or medical leave insurance benefits” to mean benefits payable under this program from the family and medical leave benefits insurance trust fund.

Under Wisconsin's Fair Employment law, specify that it would be employment discrimination to discharge or otherwise discriminate against any individual because the individual files a complaint or attempts to enforce any right under the family or medical leave benefits insurance program, or because the individual testifies or assists in any action or proceeding held under or to enforce any right under the family or medical leave benefits insurance program.

Authorize DWD to promulgate emergency rules for the period before the effective date of the permanent rules promulgated and exempt the Department from the requirements to make a finding of an emergency and to demonstrate the need for an emergency rule.

No later than the first day of the fourth month beginning after the effective date of the bill, require DWD to submit for consideration to the Legislative Council staff the proposed permanent rules required for the family or medical leave benefits insurance program. Exempt DWD from certain permanent rule-making requirements under current law.

Specify that the requirement that employers withhold contribution amounts from employee wages, would first apply to wages earned on January 1, 2025.

Provide that family and medical leave benefit eligibility would first apply to a period of family leave, or a period of medical leave, commencing on January 1, 2025.

Specify that the rights to family and medical leave insurance benefits first apply to an employee who is affected by a collective bargaining agreement that contains provisions inconsistent with rights, on the day on which the collective bargaining agreement expires or is extended, modified, or renewed.

[Bill Sections: 15, 76, 79, 80, 93(2) thru (5), and 95(2)]

27. Family and Medical Leave Expansion

Under current family and medical leave 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.

Specify the following changes to current family and medical leave law: (a) 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; (b) increase the number of weeks a covered employee may take family or medical leave to 12 weeks in a 12-month period; (c) allow a covered employee to take family leave for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling who is in medical isolation; (d) 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; (e) amend the statute of limitations for filing a complaint from 30 days to 300 days for an employee who believes his or her employer has violated the family and medical leave law; (f) add coverage for any qualifying exigency, as determined by the Department of Workforce Development (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; (g) add coverage if there is an unforeseen or unexpected short-term gap, as defined by DWD by rule, in childcare for the employee's child, grandchild, or sibling that the employee must fill; (h) add coverage to address issues related to the employee or the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling being the victim of domestic abuse, sexual abuse, or stalking; and (i) add grandparent, grandchild, and sibling for whom an employee may take family leave.

Definitions. Expand the current law definition of "serious health condition" to include medical isolation. Define "medical isolation" as 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, himself, or themselves 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 the department of health services advises that an individual isolate or quarantine; and (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.

Define "covered active duty" to mean: (a) 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) 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 as specified under current federal law.

Modify the definition of "child" under current law to eliminate the requirement that an individual, 18 years of age or older, can only be considered a child if they cannot take care for themselves because of a serious health condition. The term "child" would continue to be defined a natural, adopted, or foster child, a stepchild, or a legal ward. Define "sibling" to mean a brother, sister, half-brother, half-sister, stepbrother, or stepsister, whether by blood, marriage, or adoption.

Notice. Specify that if the employee intends to take family 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 must provide notice of that intention to the employer in a reasonable and practicable manner.

Certification. Specify that if an employee requests family leave for covered active duty, 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. Require the certification to be issued at such time and in such manner as DWD may prescribe by rule, and require the employee to provide a copy of that certification to the employer in a timely manner.

Provide that if an employee requests family leave due to a gap in childcare, the employer may require the employee to provide certification that there is an unforeseen or unexpected short-term gap in childcare, as defined in rule by DWD, for the employee's child, grandchild, or sibling, that the employee must fill. If an employee requests family leave due to being the victim of domestic abuse, sexual abuse, or stalking, the employer may require the employee to provide certification that the employee is addressing issues of the employee or the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling related to being the victim of domestic abuse, sexual abuse, or stalking. Specify that if an employee requests family or medical leave due to medical isolation, the employer may require the employee to provide certification issued by a local public health official, DHS, a health care provider, or Christian Science practitioner of the child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee, except that no employer may require certification if the sole reason for the medical isolation is if the employer had 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. Provide that no employer may require certification stating more than that the child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee is in medical isolation. Specify that if the employee requests family leave, the employer may require the employee to provide certification that the employee is responsible for the care of a child, spouse, domestic partner, parent, grandparent, grandchild, sibling, or employee who is in medical isolation.

Under current law, an individual that is the employer's parent, spouse, domestic partner, or child, cannot be considered an employee. Expand the current law definition to also include an employer's grandparent, grandchild, or sibling to those that cannot be considered an employee.

Apply the expanded 300 day statute of limitations for certain violation to first apply to a violation that occurs, or that an employee should reasonably have known occurred, on the effective date of the bill.

[Bill Sections: 38 thru 75, 89, and 95(1)]

28. State Employee Paid Family and Medical Leave

Require the administrator of the Division of Personnel Management (DPM) to develop and recommend to the Joint Committee on Employment Relations (JCOER) a program that provides 12 weeks of paid family and medical leave per year to employees whose compensation is established

under the state employee compensation plan (including state constitutional and elected officials, and justices and judges), as well as deputy and assistant district attorneys, assistant state public defenders, and assistant attorneys general. Specify that, if this paid family and medical leave program were approved by JCOER, the program would become effective immediately.

Require the Board of Regents of the UW System to submit to the administrator of DPM a plan for a program to provide 12 weeks of paid family and medical leave to UW employees, along with its recommendations for adjustments to compensation and employee benefits for UW employees for 2023-25. The plan would be subject to approval by JCOER.

Specify that, with respect to paid family and medical leave for state employees, including UW employees: (a) family leave means leave from employment for the birth or placement of a child, to care for the employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling if the person receiving care has a serious health condition, to address any qualifying exigency arising from a spouse, child, domestic partner, parent, grandparent, grandchild, or sibling of the employee being on covered active duty or notified of an impending call or order to covered active duty, to address an unforeseen or unexpected short-term gap in child care for the employee's child, grandchild, or sibling, to care for the employee's child spouse, domestic partner, parent, grandparent, grandchild, or sibling if the person in question is in medical isolation, or to address issues of the employee or employee's child, spouse, domestic partner, parent, grandparent, grandchild, or sibling being the victim of domestic abuse, sexual abuse, or stalking; (b) medical leave means leave from employment when an employee has a serious health condition that makes the employee unable to perform his or her employment duties or makes the employee unable to perform the duties of any suitable employment or who is in medical isolation; and (c) serious health condition has the meaning provided under state family and medical leave law (a disabling physical or mental illness, injury, impairment, or condition involving inpatient care in a hospital, nursing home, or hospice, or outpatient care that requires continuing treatment or supervision by a health care provider).

In relation to this provision, compensation reserves for the 2023-25 biennium for state employee salaries and fringe benefits would be increased by \$8,352,800 GPR in 2023-24 (for six months of funding) and \$17,373,900 GPR in 2024-25.

Under current law, state employees may be eligible to take family and medical leave under either the Wisconsin Family and Medical Leave Act, the federal Family and Medical Leave Act (FMLA), or both. In general, state and federal FMLA leave is unpaid, though law permits the substitution of paid leave for unpaid leave in many cases. State employees other than limited-term employees are eligible for several types of paid leave, including annual leave, sabbatical leave, legal holidays, personal holidays, and sick leave. Paid leave balances, other than sabbatical leave and sick leave, do not carry over from year to year. Employees taking FMLA leave may substitute any of these types of paid leave for unpaid leave.

[Bill Sections: 90, 93(6)&(10), and 94(19)]

BL/lb
Attachment

ATTACHMENT

Fiscal Effect of September Special Session Senate Bill 1

<u>Item #</u>	<u>Title</u>	<u>2023-24</u>	<u>2024-25</u>	<u>Total</u>	
1	UW-Madison Engineering Building	\$197,336,000	\$0	\$197,336,000	GPR-Transfer
3	Nurse Educators	5,000,000	5,000,000	10,000,000	GPR
4	Wisconsin Grants - UW System	3,094,800	6,344,300	9,439,100	GPR
5	Wisconsin Grants - Private Nonprofit Colleges	1,425,300	2,921,800	4,347,100	GPR
6	Wisconsin Grants - Technical Colleges	1,148,600	2,354,700	3,503,300	GPR
7	Wisconsin Grants - Tribal Colleges	24,100	49,400	73,500	PR
8	University of Wisconsin System	22,100,000	44,300,000	66,400,000	GPR
9	Wisconsin Technical College System	20,500,000	20,500,000	41,000,000	GPR
10	Grow Your Own Educator Programs	0	5,000,000	5,000,000	GPR
11	Stipend Programs for Future Educators, Librarians, and Cooperating Teachers	0	11,483,000	11,483,000	GPR
12	Health Care Workforce Innovation Grants	100,000,000	0	100,000,000	GPR
13	Health Care Workforce Opportunity Grants	8,500,000	8,500,000	17,000,000	GPR
14	Graduate Medical Training	627,800	639,900	1,267,700	GPR
		962,400	979,600	1,942,000	FED
15	WisCaregiver Careers	0	6,000,000	6,000,000	GPR
16	Health Care Provider Innovation Grants	7,450,000	15,000,000	22,450,000	GPR
18	Qualified Treatment Trainee Grants	0	1,576,600	1,576,600	GPR
19	Child Care Quality Improvement Program	81,389,400	222,719,300	304,108,700	GPR
		19,000,000	19,000,000	38,000,000	FED
20	Child Care Partnership Grant Program	11,198,000	11,198,000	22,396,000	GPR
21	Child Care Offset	-15,000,000	0	-15,000,000	GPR
22	Child Care Administration and Licensing	312,000	624,000	936,000	FED
24	Health Care Apprenticeships	801,400	135,200	936,600	GPR
25	Transfer to Family and Medical Leave Benefits Insurance Trust Fund	243,413,400	0	243,413,400	GPR-Transfer
26	Family and Medical Leave Benefits Insurance Program	65,767,800	177,645,600	243,413,400	SEG
28	State Employee Paid Family and Medical Leave	8,352,800	17,373,900	25,726,700	GPR-Compensation Reserves
	Total	\$783,403,800	\$579,345,300	\$1,362,749,100	
		\$248,235,300	\$363,672,800	\$611,908,100	GPR
		8,352,800	17,373,900	25,726,700	GPR-Compensation Reserves
		440,749,400	0	440,749,400	GPR-Transfer
		20,274,400	20,603,600	40,878,000	FED
		24,100	49,400	73,500	PR
		65,767,800	177,645,600	243,413,400	SEG