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May 23, 2017 Joint Committee on Finance Paper #204

Wisconsin Works Worker Supplement
(Children and Families -- Economic Support and Child Care)

[LFB 2017-19 Budget Summary: Page 102, #4]

CURRENT LAW

The Department of Children and Families (DCF) administers Wisconsin Works (W-2), a work-based program that provides training and support services to assist low-income parents obtain permanent and stable employment. Local W-2 agencies help applicants participate in work preparation activities, find or keep jobs, and pay for the costs of maintaining employment. In order to be eligible for a W-2 employment position for any month, an individual must meet certain nonfinancial and financial eligibility requirements. W-2 is primarily funded by federal temporary assistance to needy families (TANF) block grant funds.

Federal law requires that a work-eligible individual engage in work once the state determines that the individual is ready, or after 24 months of receiving TANF assistance, whichever is earlier. Generally, in order to meet the required work participation rate (WPR) a participant must engage in work activity for an average of at least 30 hours a week. For a single-parent family with a child under the age of six, the participant must engage in work activities for 20 hours. Two-parent families, whose hours are combined for purposes of the WPR, are required to work: 35 hours a week, if not receiving federally funded child care, or 55 hours a week if receiving federally funded child care. States do not get partial credit for participants who work, but do not work enough hours to reach the minimum requirements.

Federal law requires states to achieve two minimum work participation rates: an overall rate and a two-parent rate. The overall WPR requires that 50% of all families receiving TANF assistance participate in work activities during the fiscal year. The two-parent WPR requires that 90% of two-parent families receiving TANF assistance during the fiscal year participate in work activities.

Failure to comply with the minimum participation requirements may result in a penalty which reduces the adjusted TANF block grant by 5% to 21%, depending on how many years the state fails to meet the requirements and the degree of non-compliance. States that successfully meet their WPR targets receive a reduction in the amount of state funding required under federal law that must be contributed for TANF-related programs. This is referred to as the maintenance-of-effort (MOE) requirement. Wisconsin's adjusted TANF block grant is approximately $236 million per year.

States may receive credit towards the required WPR. The state's WPR may be reduced based on caseload reductions that have occurred since 2005 for reasons other than changes in program eligibility rules. States are also allowed to receive caseload reduction credits for excess MOE spending (the excess MOE caseload credit is calculated by dividing total annual excess MOE spending on assistance by the average monthly expenditures for assistance per case for the fiscal year).

GOVERNOR

Allocate $2,700,000 from TANF-related funds annually to provide eligibility to W-2 participants who meet certain federal work participation requirements to receive a supplemental payment of $50 each month for up to twelve months. The supplement would assist participants to maintain unsubsidized employment after participating in a W-2 employment position. The worker supplement would be funded as a separate state program with state funding from the TANF program.

DISCUSSION POINTS

1. As shown in the Attachment, in federal fiscal year (FFY) 2015 four states failed to meet the all-families 50% WPR target (Colorado, Nevada, Vermont, and Wisconsin). Further, 14 of the 27 states subject to the two-parent WPR requirement failed to meet the target. The remaining states had no TANF funded program for such families.

2. Table 1, below, shows the following information for all families and two-parent families in Wisconsin by federal fiscal year: the statutory federal work participation requirement; the credit Wisconsin received for reduced caseloads; the adjusted target; and the actual WPR.

3. As shown in Table 1, Wisconsin previously received substantial reductions to WPR targets from decreases in caseloads. Before FFY 2007, caseload reduction credits were based on caseload statistics from 1995. Wisconsin, like most states, saw substantial decreases in caseloads following the initial welfare reforms associated with W-2 and TANF. As a result, Wisconsin could reliably earn credit adjustments due to the much lower caseloads under the W-2 program.

4. Beginning with FFY 2007, the Deficit Reduction Act (DRA) of 2005 changed federal law such that credit adjustments would be based on 2005 caseloads and would include families in separate state programs funded with TANF MOE. As a result, earning credit adjustments became substantially more difficult.

TABLE 1

Work Participation Rates
Federal Fiscal Year 1998-2015

	All Families				Two-Parent Families			
FFY	Federal Target	Adjusted Credit**	Target	Actual	Federal Target	Adjusted Credit**	Target	Actual
1998	30%	-42%	0%	64%	75%	-73%	2%	39%
1999	35	-70	0	80	90	-70	20	56
2000	40	-50	0	73	90	-50	40	35
2001	45	-56	0	75	90	-56	34	39
2002	50	-54	0	69	90	-54	36	39
2003	50	-52	0	67	90	-69	21	40
2004	50	-50	0	61	90	-69	21	33
2005	50	-49	1	44	90	-69	21	26
2006	50	-53	0	36	90	-78	12	17
2007*	50	-19	31	37	90	-100	0	21
2008*	50	-54	0	37	90	-100	0	32
2009*	50	-24	26	40	90	-68	22	33
2010*	50	-24	26	43	90	-73	17	31
2011*	50	-50	0	38	90	-90	0	22
2012*	50	0	50	32	90	0	90	17
2013*	50	0	50	34	90	0	90	26
2014*	50	0	50	36	90	0	90	32
2015*	50	0	50	38	90	0	90	39

*Use 2005 as base comparative year, rather than 1995.
**Beginning in 2007, the credit includes the sum of the caseload reduction credit and the excess MOE adjustment.

5. As shown in the table, until 2012, Wisconsin met the TANF WPR targets every year except for 2000. Wisconsin has not met the all-families WPR or the two-parent WPR in any year since 2012.

6. DCF indicates that the causes of failing to meet WPR targets include the following. First, the recession in 2008 and subsequent recovery period made it difficult to improve WPR performance. Whereas caseloads increased during the recession, W-2 agencies had difficulty locating additional work experience sites to meet that demand.

7. Second, Wisconsin has not received case reduction credits since 2012, due to the changes introduced by the DRA, and the increases in caseloads during the recession and recovery period. MOE expenditures, though comparable to previous years, have not been large enough to compensate for the increase in caseloads in the federal WPR case reduction credit formula.

8. Third, TANF regulations do not count unsubsidized employment as a participating activity unless the family receives a cash benefit, whereas W-2 does not provide cash benefits to such participants. As a result, participants who have successfully transitioned to work under W-2 are not counted into the WPR.

9. Fourth, W-2 provides cash assistance to participants with barriers to employment (such as transitional jobs for those caring for a disabled family member). Since the activities assigned to such participants only qualify towards the WPR for a limited period of time, large numbers of participants are counted as not being assigned any countable work activities.

10. Finally, DCF notes that the W-2 service delivery system was restructured in January, 2013, from a mix of county and private agencies into eight private agencies serving 10 large geographic areas. Further, the reimbursement system changed from payments for allowable costs to a hybrid payment consisting of monthly capitation payment for persons served and defined payments for outcomes. DCF indicates that the new contract structure and performance goals changed the W-2 programs in several ways which boosted caseload by 14.5% in FFY 2013: (a) agencies were encouraged to increase their outreach to eligible participants in the supplemental nutrition assistance program; (b) service capacity and resources increased in small counties that previously may have lacked resources; and (c) the new incentive payment structure promoted efficiency and prioritized serving applicants.

11. The federal Department of Health and Human Services (DHHS) notified DCF via letter dated May 28, 2015, that Wisconsin had failed to meet the work participation targets for FFY 2012 and therefore was subject to a potential fine of $11.8 million (5% of the adjusted TANF block grant). Via letter dated July 24, 2015, DCF agreed to enter into a corrective compliance plan in order to avoid the penalty and to come into compliance by the end of FFY 2016. Further, DCF requested to be released from additional penalties for FFY 2013, 2014, and 2015, arguing that the lateness of the notification from DHHS impeded the state's ability to enact a timely corrective compliance plan.

12. Nevertheless, DHHS notified DCF via letters dated January 11, 2016, and July 26, 2016, that Wisconsin had failed to meet the work participation requirements for FFY 2013 and FFY 2014 and therefore is subject to potential penalties of $15.1 million and $19.8 million, respectively. DCF indicates that it intends to appeal these penalties.

13. Changes under the corrective compliance plan in FFY 2016 include the following. First, pursuant to changes made under 2015 Act 55, DCF has strengthened program policies for sanctioning individuals who refuse to participate in assigned work activities with reduced benefits and case closures. This removes non-participating individuals from the WPR calculation. W-2 agencies also will utilize strategies to reduce non-participation (such as minimizing travel, matching jobs to interest, and utilizing flexible work sites). Second, DCF issued best practice guidelines and instituted several changes to improve the performance of local W-2 agencies on federal WPR targets. Some changes relate to increasing the number of assigned hours that are countable towards the work participation target. Third, DCF added new incentive payments for W-2 agencies (which are compensated on an outcome basis as opposed to a cost basis) and changed incentive payments to better reward those agencies that meet the federal work participation requirements. Finally, DCF revised TANF data reporting so that all parents receiving social security disability income are properly excluded from WPR calculations. This should improve the state's WPR since such persons are not assigned countable work activities.

14. DCF indicates that the compliance plan made significant progress in improving the state's WPR, but ultimately fell short of the required target WPR. DCF indicates that the WPR for

FFY 2016 was 42.3%, whereas the target was 43.6%. As a result of the improvement, DCF anticipates that the state may be eligible for a significant penalty reduction. DCF estimates that the penalties for FFY 2012 and FFY 2013 could be reduced from a total of $26.9 million to $6.8 million.

15. No WPR penalties have yet been incurred. Penalties for FFY 2014 are still subject to dispute and DCF may enter into a compliance plan to avoid them. As for the penalties for FFY 2012 and FFY 2013, if DHHS issues a noncompliance letter in response to DCF's submission and proceeds with imposing penalties for FFY 2012 and FFY 2013, DCF would have an additional period of time to dispute the penalty amount or appeal to the DHHS appeals board. If the administrative appeal is unsuccessful, DCF would also be able to seek judicial review.

16. Assuming the final decision from DHHS will be issued between October 1, 2017, and September, 30, 2018, and that the DHHS decision will disapprove of the results of compliance plan, then the TANF block grant would be reduced in 2019. Because 2019 overlaps the 2017-19 biennium and the 2019-21 biennium, it is estimated that three-fourths of the penalties for FFY 2012 and FFY 2013 ($5.1 million) would be levied in the 2017-19 biennium. State funding in the same amount would be required to supplement the TANF program in FFY 2020 to replace the TANF penalty.

17. DCF will be subject to increasingly larger penalties each year the state fails to meet federal WPR targets. Pursuant to federal regulations, for each consecutive year that a state is subject to WPR penalties, DHHS could increase the penalty by 2% of the adjusted TANF block grant over the previous year's penalty, not to exceed an overall total of 21% of the adjusted TANF block grant. For example, assuming that DCF would be subject to penalty for FFY 2015, the penalty would be $24.5 million, which is the FFY 2014 penalty ($19.8 million) plus an additional $4.7 million (2% of the adjusted TANF block grant). Penalties for consecutive future years would continue to grow up to a maximum of $49.5 million.

18. Most states have sought to improve WPR performance by increasing the number of families that meet work participation requirements (the WPR numerator) compared to the overall number of families that receive TANF assistance (the WPR denominator).

19. To increase the WPR numerator, other states have retained families within their TANF programs after they find employment. One method is to disregard earned income for a limited period of time so that families graduating from the TANF program into employment will continue to qualify for assistance for an additional period of time. Another approach is to provide a monthly cash supplement to such workers.

20. For example, both Michigan and Minnesota improved their performance on WPR targets after implementing worker supplement programs. Michigan's extended family independence program provides a $10 per month cash stipend to workers for an additional six months after they begin to work enough hours to count in the WPR. Further, Minnesota previously provided a similar transitional assistance payment of $25 per month for up to 24 months. Minnesota's transitional payment was suspended after December 1, 2014 (after achieving WPR targets), but may be reinstated as needed in order to meet WPR targets.

21. Conversely, other states have improved performance by decreasing the WPR denominator by removing participants who would not meet the WPR requirement. For example, most states, like Wisconsin, have modified program rules to reduce time limits on participation or to more easily sanction and remove participants from TANF caseloads when they are not performing their assigned activities. Another strategy is to provide lump sum cash payments to divert applicants away from TANF programs. By accepting the one-time payment for short-term needs (which do not count as TANF assistance under federal law), such persons become ineligible to participate for a certain period of time and therefore do not count towards the WPR rate.

22. Finally, some states, such as Illinois, have sought to reduce or avoid the WPR targets entirely by funding programs solely with (non-MOE) state funds. Because the WPR targets only apply to families which receive TANF (or TANF MOE) assistance, the WPR targets do not apply to programs funded solely with state funds. For example, the two-parent WPR target did not apply to 24 states in FFY 2015. This is in part because many states found it easier to create a solely state funded program for such families rather than meet the 90% WPR target.

23. The bill would provide $2,700,000 annually for DCF to implement a worker supplement of $50 each month for up to twelve months for W-2 participants entering the unsubsidized workforce from the W-2 program. Such persons may qualify under current law for case management services to assist them to maintain employment.

24. The funding provided under the bill is reasonable given the current participation levels in the W-2 program. In the twelve months from March, 2016, through February, 2017, there was an average of more than 4,700 cases having unpaid, case management follow-up placements for participants who obtained employment while participating in a W-2 employment position. The funding provided under the bill would likely be sufficient, assuming that most of these participants would meet the federal work participation requirements and that most would maintain employment for twelve months.

25. DCF indicates that it is likely that the worker supplement would enable the W-2 program to meet federal WPR targets. The worker supplement would substantially improve performance on federal WPR targets by increasing the number of families participating in work activities that receive TANF assistance. Families moving from W-2 employment positions into unsubsidized work would otherwise not be counted for purposes of determining the WPR.

26. Further, the supplement of additional income could assist the transition into unsubsidized employment and serve as an additional incentive for needy families to find and keep jobs.

27. DCF indicates that receipt of the worker supplement would not count towards a participant's 48-month time limit for W-2 employment positions under state law or the 60-month time limit under federal law for the receipt of TANF assistance. This is because the supplement would be funded as a separate state program, which would not be subject to the federal 60-month participation limit.

28. Because the worker supplement could improve WPR performance and assist W-2 participants to transition into and maintain unsubsidized employment, the Committee could approve

the Governor's recommendation (Alternative 1). This would provide $2,700,000 annually to support a monthly worker supplement of $50 for needy families that meet the federal work participation requirements for up to twelve months.

29. Alternatively, the Committee could provide an additional $2,700,000 annually to increase the worker supplement to $100 per month (Alternative 2). Increasing the supplement could provide additional assistance to families in need and further increase the incentive to work.

30. On the other hand, the Committee could find that the worker supplement runs counter to the original intent of the TANF program by superficially improving WPR statistics, rather than actually providing jobs skills for participants and matching them with local employers. Further, the Committee could reasonably conclude that the $50 monthly worker supplement is unlikely to substantially improve incentives for participants to enter the workforce when compared to the sizable preexisting benefits of employment (such as increased wages and the earned income tax credit, both of which are already available to workers in unsubsidized employment but not for those in W-2 employment placements). Thus, the Committee could determine that $2,700,000 in annual TANF funding would be better invested in assistance programs that improve job readiness for current participants.

31. Further, it is not unreasonable to believe that Wisconsin could meet WPR targets without the worker supplements. The W-2 caseload increased in response to the 2008 recession and therefore W-2 assisted additional needy families in a time of large increases in unemployment. Since that time, the W-2 caseload has returned to prerecession levels-- levels which previously enabled Wisconsin to receive WPR credits for caseload reductions and "excess" MOE spending. Over the last three years, the W-2 cash benefit caseload dropped considerably from 30,012 in September, 2013 to 17,412 in September, 2016. Therefore, in the future Wisconsin may once again be able to receive caseload reduction credits to reduce WPR targets. Combined with the substantial improvements under the compliance plan for FFY 2016, additional caseload reduction credits could allow the state to meet reduced WPR targets.

32. Consideration of the WPR penalty could be postponed to a later date to review DCF's continued progress on WPR targets. Instead, the Committee could require DCF to issue periodic reports to the Committee over the biennium concerning the compliance program and the appeals process as well as require DCF to prepare a plan containing several potential alternatives that promote employment for current recipients of TANF assistance.

33. For example, DCF could request a waiver under Section 1115 of the Social Security Act for a demonstration program which promotes the objectives of TANF. An information memorandum dated July 12, 2012, from the federal Administration for Children and Families, within DHHS, indicated that states may apply for a waiver of the work participation requirements to encourage states to consider new, more effective ways to meet the goals of the TANF program. The information memorandum indicated that the waiver application should include approaches to increase employment outcomes. Subsequent communication from the DHHS Secretary indicated that a waiver would only be considered if the application contained a plan to move at least 20% more people from welfare to work than the current work participation rates would require. To date, Wisconsin has not applied for a waiver. Such a waiver could concern the definitions of work activities and engagement for transitional placements and the calculation of participation rates.

34. Because the Committee could find that alternative reforms through compliance programs, appeals, and waivers would better serve the W-2 program, the Committee could reject the Governor's recommendation (Alternative 3). Under this alternative, DCF would be required to submit periodic reports regarding performance on WPR targets in the TANF program, progress on any compliance programs with DHHS, and the appeals process for any TANF penalties related to WPR requirements on or before: September 15, 2017; March 16, 2018; September 14, 2018; and March 15, 2019. Further, DCF would be required to present a plan to improve work participation rates in the state TANF program for the Committee's approval on or before October 1, 2018. DCF would be encouraged to, but not be required to, include a request for a waiver under Section 1115 of the Social Security Act in the plan.

ALTERNATIVES

1. Approve the Governor's recommendation and allocate $2,700,000 annually from federal TANF block grant funds to support a monthly worker supplement of $50 for needy families that meet the federal work participation requirements for up to twelve months.

ALT 1	**Change to**	
	Base	**Bill**
FED	$5,400,000	$0

2. Modify the Governor's recommendation to provide an additional $2,700,000 annually from federal TANF block grant funds to increase the monthly worker supplement to $100 per month.

ALT 2	**Change to**	
	Base	**Bill**
FED	$10,800,000	$5,400,000

3. Delete provision. Require DCF to submit periodic reports regarding performance on WPR targets in the TANF program, progress on any compliance programs with DHHS, and the appeals process for any TANF penalties related to WPR requirements on or before: September 15, 2017; March 16, 2018; September 14, 2018; and March 15, 2019. Further, require DCF to present a plan to improve work participation rates in the state TANF program for the Committee's approval on or before October 1, 2018. DCF would be encouraged to, but not be required to, include a request for a waiver under Section 1115 of the Social Security Act into the plan.

ALT 3	**Change to**	
	Base	**Bill**
FED	$0	- $5,400,00

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Attachment

ATTACHMENT

Temporary Assistance for Needy Families
Work Participation Rate
Fiscal Year 2015

	All-Families Rate			Two-Parent Families Rate		
State	Rate	Adjusted Standard**	Met Target	Rate	Adjusted Standard**	Met Target
Alabama	54.4%	3.0%	Yes	61.4%	26.8%	Yes
Alaska	39.8	36.7	Yes	52.8	65.6	No
Arizona	29.9	0.0	Yes	69.7	36.3	Yes
Arkansas	44.4	0.0	Yes	31.2	24.7	Yes
California	55.7	50.0	Yes	61.4	90.0	No
Colorado	18.0	34.2	No	14.8	74.2	No
Connecticut	49.7	19.9	Yes	*		
Delaware	33.1	15.8	Yes	*		
Florida	45.3	24.8	Yes	49.4	29.4	Yes
Georgia	61.7	0.0	Yes	*		
Hawaii	44.7	0.0	Yes	57.0	32.2	Yes
Idaho	64.6	50.0	Yes	*		
Illinois	65.9	50.0	Yes	*		
Indiana	30.3	18.7	Yes	28.1	3.9	Yes
Iowa	36.4	5.0	Yes	32.4	24.0	Yes
Kansas	34.5	2.7	Yes	42.2	35.8	Yes
Kentucky	55.4	30.4	Yes	54.6	70.4	No
Louisiana	21.0	0.0	Yes	*		
Maine	71.3	50.0	Yes	28.6	90.0	No
Maryland	51.5	21.0	Yes	*		
Massachusetts	59.8	50.0	Yes	94.6	90.0	Yes
Michigan	69.4	0.0	Yes	*		
Minnesota	37.9	28.1	Yes	*		
Mississippi	63.0	50.0	Yes	*		
Missouri	22.4	8.9	Yes	*		
Montana	40.1	19.2	Yes	36.8	35.9	Yes
Nebraska	42.6	0.0	Yes	*		
Nevada	38.3	50.0	No	45.2	90.0	No
New Hampshire	78.6	50.0	Yes	*		
New Jersey	26.9	5.9	Yes	*		
New Mexico	36.1	0.0	Yes	38.5	29.7	Yes
New York	31.7	14.6	Yes	*		
North Carolina	19.8	4.5	Yes	20.8	44.5	No
North Dakota	68.3	0.0	Yes	*		
Ohio	57.2	37.7	Yes	59.9	75.5	No
Oklahoma	24.2	9.1	Yes	*		
Oregon	68.0	50.0	Yes	99.1	90.0	Yes
Pennsylvania	24.5	21.7	Yes	42.5	11.2	Yes
Rhode Island	14.9	0.9	Yes	11.0	40.9	No
South Carolina	36.6	0.0	Yes	*		
South Dakota	57.9	50.0	Yes	*		
Tennessee	27.3	0.0	Yes	12.0	39.4	No
Texas	20.3	0.0	Yes	*		
Utah	16.3	0.0	Yes	*		
Vermont	43.6	46.3	No	50.7	86.3	No
Virginia	44.8	20.6	Yes	*		
Washington	20.3	13.2	Yes	24.9	53.2	No
West Virginia	42.2	24.4	Yes	*		
Wisconsin	38.9	50.0	No	40.0	90.0	No
Wyoming	72.4	50.0	Yes	81.3	90.0	No

*State has no TANF and/or SSP-MOE families subject to the two-parent rate.
**Statutory standards of 50% for all-families rate and 90% for two-parent rate are adjusted by each state's caseload reduction credit.