GENERAL FUND TAXES

1. GENERAL FUND TAX CHANGES

Governor: The following table shows the general fund tax changes recommended by the Governor, along with their fiscal effects in the 2023-25 biennium. The table does not include tax law changes that are estimated to have a minimal fiscal effect. The table also does not include changes to expenditures of refundable tax credits, because those are paid from appropriations rather than recorded as reductions in tax revenues.

2023-25 General Fund Tax Changes

	2023-24	2024-25	2023-25 Biennium
Income and Franchise Taxes			
Family and Individual Reinvestment Credit	-$418,789,500	-$421,028,700	-$839,818,200
Limit MAC for Manufacturers	348,700,000	306,400,500	655,100,500
IRC Update - TCJA	188,000,000	199,200,000	387,200,000
Capital Gains Limitation	185,200,000	154,200,000	339,400,000
Family Caregiver Credit	-96,747,700	-98,349,000	-195,096,700
Expand Child and Dependent Care Credit	-27,280,800	-27,829,900	-55,110,700
Interactive Effects	11,800,000	12,200,000	24,000,000
Pre-Tax Treatment of Paid Family Leave	--	-20,450,000	-20,450,000
Expand Retirement Income Subtraction	-8,100,000	-8,100,000	-16,200,000
Expand Refundable Research Credit	-16,100,000	--	-16,100,000
Universal Changing Station Credit	-5,300,000	-10,600,000	-15,900,000
Limit Private School Tuition Deduction	6,500,000	6,500,000	13,000,000
Expand Low-Income Housing Credit	-1,450,000	-7,250,000	-8,700,000
Limit Dividends Received Deduction	3,200,000	3,200,000	6,400,000
First-Time Homebuyer Deduction	--	-4,800,000	-4,800,000
Repeal NOL Carryback	2,900,000	1,500,000	4,400,000
IRC Update - Changes Since 2020	-400,000	1,400,000	1,000,000
Flood Insurance Premiums Credit	-400,000	-400,000	-800,000
Expand Disability Income Subtraction	-260,000	-260,000	-520,000
Repeal Working Families Credit	125,000	125,000	250,000
Subtotal--Income and Franchise	$171,597,000	$85,657,900	$257,254,900
General Sales and Use Tax			
Sales Tax on Prewritten Software	$18,100,000	$40,900,000	$59,000,000
Exemption for Diapers/Hygiene Products	-13,700,000	-19,100,000	-32,800,000
Sales Tax on Recreational Marijuana	--	10,200,000	10,200,000
Exemption for Renewable Energy Storage	-1,700,000	-2,500,000	-4,200,000
Exemption for Breastpumps	-510,000	-680,000	-1,190,000
Exemption for Planning/Counseling Services	-400,000	-600,000	-1,000,000
Exemption for Gun Safes and Locks	-230,000	-310,000	-540,000
Repeal Exemption for Farm-Raised Deer	90,000	120,000	210,000
Subtotal--General Sales and Use Tax	$1,650,000	$28,030,000	$29,680,000

	2023-24	2024-25	2023-25 Biennium
Excise Taxes			
Increase Tax on Vapor Products	$9,200,000	$13,200,000	$22,400,000
Increase Tax on Little Cigars	2,300,000	3,200,000	5,500,000
Subtotal--Excise Taxes	$11,500,000	$16,400,000	$27,900,000
Tax Enforcement Provisions			
Delinquent Tax Collection Agents - 11.0 FTE	$4,000,000	$16,100,000	$20,100,000
Advanced Technology System	--	7,600,000	7,600,000
Subtotal--Tax Enforcement Provisions	$4,000,000	$23,700,000	$27,700,000
Total Tax Changes	$188,747,000	$153,787,900	$342,534,900

Income and Franchise Taxes

1. FAMILY AND INDIVIDUAL REINVESTMENT CREDIT

GPR-Tax	- $839,818,200

Governor: Create a nonrefundable individual income tax credit called the family and individual reinvestment credit, beginning in tax year 2023, equal to a minimum dollar amount or a percentage of the claimant's net tax liability subject to phaseout based on the claimant's Wisconsin adjusted gross income (AGI) and filing status.

Set the credit equal to the greater of 10% of the claimant's net tax liability, defined as the claimant's income tax liability after the application of nonrefundable tax credits, but prior to the application of the nonrefundable credit for taxes paid to other states, or: (a) $100 if the claimant's filing status is single or head-of-household and the claimant's AGI is less than $100,000; (b) $100 if the claimant's filing status is married-joint and the combined AGI of the claimant and the claimant's spouse is less than $150,000; and (c) $50 if the claimant's filing status is married-separate and the claimant's AGI is less than $75,000. If the claimant's AGI, or combined AGI in the case of married-joint filers, exceeds the preceding income thresholds but is less than $120,000 for single or head-of-household filers, $175,000 for married-joint filers, and $87,500 for married-separate filers, set the credit equal to the claimant's net tax liability multiplied by a percentage calculated as follows: (a) subtract the applicable income threshold from the claimant's AGI, or combined AGI in the case of married-joint filers; (b) divide the difference by $20,000 if the claimant's filing status is single or head-of-household, $25,000 if the claimant's filing status is married-joint, or $12,500 if the claimant's filing status is married-separate; (c) subtract that fraction from 1.0; and (d) multiply that fraction by 10%. Under this structure, the 10% credit would proportionally phase down between $100,000 and $120,000 for single and head-of-household filers, $150,000 and $175,000 for married-joint filers, and $75,000 and $87,500 for married-separate filers, and would phase out completely at the higher income threshold for each filer type. The following table shows how the credit would be calculated for a hypothetical married-joint taxpayer under certain AGI and net tax liability scenarios.

Family and Individual Reinvestment Credit Calculations,
Hypothetical Married-Joint Taxpayer

Wisconsin AGI	$70,000	$140,000	$170,000
Adjusted Net Tax Liability	800	3,200	3,200
Initial Credit (10% of Adjusted Net Tax Liability)	80	320	320
Greater of $100 or Initial Credit	100	320	320
Phase-Out Reduction	NA	NA	-256
Final Credit	$100	$320	$64

Limit the credit to claims filed within four years of the unextended due date for which the tax return was due. Prohibit part-year residents and nonresidents from claiming the credit, and allow only one credit per household per year, except permit married-separate filers to each claim the credit, as provided above, and permit married persons living apart and treated as single under the Internal Revenue Code (IRC) to claim the credit as if the individual were a single or head-of-household claimant. Define household as a claimant and an individual related to the claimant as husband or wife. Prohibit individuals who may be claimed as a dependent on a return of another taxpayer from claiming the credit. Specify that current law provisions which apply to Ch. 71 of the statutes and relate to Department of Revenue (DOR) enforcement authority, and to assessments, refunds, appeals, collection, interest, and penalties, would also apply to this credit. Decrease individual income tax collections by an estimated $418,789,500 in 2023-24 and $421,028,700 in 2024-25 and annually thereafter.

[Bill Sections: 1411 and 1438]

2. MANUFACTURING AND AGRICULTURE TAX CREDIT LIMITATION

GPR-Tax $655,100,500

Governor: Limit the amount of qualified production activities income (QPAI) from manufacturing activities a claimant may use as the basis for claiming the manufacturing and agriculture tax credit (MAC), as described below. The limit would not apply to income derived from agricultural activities.

Under current law, for corporate filers, the MAC is equal to 7.5% multiplied by the lesser of a claimant's: (a) eligible QPAI, as defined under the IRC, derived from manufacturing or agricultural property in Wisconsin; (b) income apportioned to Wisconsin for state corporate income/franchise tax purposes; or (c) income determined as taxable under state combined reporting provisions. For business owners who file under the individual income tax, the credit is equal to 7.5% of the claimant's eligible QPAI that is derived from manufacturing or agricultural property in Wisconsin. There is no maximum amount of MAC that can be claimed in a tax year. However, the credit may not be used by individual filers to offset taxes on other sources of income. Further, the amount of income on which the MAC is calculated must be reduced by the amount of QPAI that is claimed under the credit for taxes paid to another state.

Pass-through entities, such as partnerships, limited liability companies (LLCs), and tax-

option (S) corporations, cannot claim the MAC under current law. Instead, the credit computed by those entities can pass through to the partners, members, or shareholders. Partnerships, LLCs, and S corporations that elect to be taxed at the entity level may not claim the MAC (and neither can their owners).

The bill would limit the amount of QPAI from manufacturing activities a claimant may use to compute the MAC to no more than $300,000. This provision would effectively provide for a maximum MAC claim of $22,500 for income derived from manufacturing activities. For example, a sole proprietor or a C corporation could only claim a total of $22,500 on their own manufacturing income. According to DOR, a pass-through entity would be able to compute the credit up to a maximum of $22,500, and pass through that amount in the aggregate to its partners, members, or shareholders. Because an individual can own an interest in multiple pass-through entities, an individual would be able to claim a maximum of $22,500 for each pass-through business in which the individual has an ownership interest, such that an individual could potentially claim more than $22,500 in the aggregate. [A technical amendment would be needed to apply the MAC limitation as intended to claimants whose entire QPAI is earned in Wisconsin.]

The provision would first apply for taxable years beginning after December 31, 2022. The administration estimates that the provision would increase state tax revenues by $348,700,000 in 2023-24 and $306,400,500 in 2024-25.

[Bill Sections: 1417, 1418, and 1481 thru 1483]

3. IRC UPDATE - TAX CUTS AND JOBS ACT OF 2017

GPR-Tax	$387,200,000

Governor: Update references to the IRC under the individual income and corporate income/franchise taxes to adopt certain provisions of the Tax Cuts and Jobs Act of 2017 (TCJA), P.L. 115-97, as amended by subsequent federal legislation, for taxable years beginning after December 31, 2022. [An amendment would be needed to accomplish the Administration's intent so that the TCJA provisions would not be excluded for taxable years beginning after 2022.] The bill would adopt the following TCJA items with a revenue effect shown in the table below: (a) loss limitation for taxpayers other than corporations; (b) accounting rules for accrual method taxpayers; (c) limitation on the deduction for business interest; (d) limitation on the deduction for entertainment, amusement, and recreation expenses; (e) limitation on the deduction of Federal Deposit Insurance Corporation (FDIC) premiums; and (f) modification of the limitation on the deduction for highly paid individuals. According to the Administration, state adoption of these provisions would increase state income and franchise tax revenues by $188,000,000 in 2023-24 and $199,200,000 in 2024-25.

2023-25 Biennium Fiscal Effect
(Millions)

TCJA Provision as Amended	2023-24	2024-25
Loss limitation for taxpayers other than corporations	$51.3	$48.0
Accounting rules for accrual method taxpayers	3.6	3.3
Limitation on the deduction for business interest	109.6	123.2
Limitation on the deduction for entertainment, amusement, and recreation	14.1	15.0
Limitation on the deduction for FDIC premiums	5.9	6.1
Modification of the limitation for highly paid individuals	3.5	3.6
Total	$188.0	$199.2

[Bill Sections: 1539 and 1540]

4. IRC UPDATE - FEDERAL LEGISLATION ENACTED IN 2021 AND 2022

GPR-Tax	$1,000,000

Governor: Update references to the IRC under the individual income and corporate income/franchise taxes. For taxable years beginning after December 31, 2022, adopt the selected IRC provisions included in the following federal laws that were enacted in 2021 and 2022: (a) American Rescue Plan Act of 2021 (ARPA); (b) Paycheck Protection Program Extension Act of 2021; (c) Surface Transportation Extension Act of 2021; (d) Further Surface Transportation Extension Act of 2021; (e) Infrastructure Investment and Jobs Act; (f) Consolidated Appropriations Act of 2022; (g) Supreme Court Security Funding Act of 2022; and (h) Inflation Reduction Act of 2022.

Provide that, beginning in tax year 2022, changes to Section 529 of the IRC related to college savings plans are automatically adopted for state tax purposes. Under current law, Wisconsin generally conforms to Section 529 provisions enacted as of December 31, 2020.

Adopt several revisions to state tax statutes to simplify the legal references to the federal IRC. Under current law, the IRC is defined for state tax purposes under several different sections of state statutes for different types of taxpayers (such as individuals, partnerships, LLCs, S corporations, and insurance companies). The bill would consolidate these provisions, generally defining the term "internal revenue code" in one location in the state statutes. Further, the bill would recreate a conformity section so as to simplify the list of specific provisions subject to static conformity to the IRC in effect as of a certain date (such as depreciation conforming to the IRC in effect on January 1, 2014), and those provisions continuously conforming to all subsequent changes to the IRC (such as Section 179 expensing).

According to the Administration, state adoption of these provisions would reduce state income and franchise tax revenues by $400,000 in 2023-24 and increase revenues by $1,400,000 in 2024-25. However, it should be noted that this item would adopt Section 9675 of ARPA, specifying that most student loans discharged after December 31, 2020, and before January 1,

2026, would not be included in gross income for income tax purposes. The Administration indicates that the fiscal effect of this provision is assumed to be minimal due to recent court decisions (*Biden v. Nebraska* and *Department of Education v. Brown*) which vacated the federal student loan discharge program that would have discharged up to $10,000 (or up to $20,000 for Pell Grant recipients) of student loan debt for borrowers that satisfy certain income limits. However, if the student loan discharge program were upheld on appeal, state adoption of ARPA Section 9675 could result in foregone revenues of several hundred million dollars in the 2023-25 biennium (depending on the outcome of future court cases).

[Bill Sections: 1353 thru 1358, 1361, 1362, 1434, 1446 thru 1450, 1453, 1488, 1490 thru 1494, and 1538 thru 1540]

5. LIMIT CAPITAL GAINS EXCLUSION

GPR-Tax	$339,400,000

Governor: Limit the current law exclusion for 30% of an individual's net long-term, nonfarm capital gain as follows, beginning in tax year 2023. Prohibit an individual with federal AGI above the following thresholds from claiming the exclusion: (a) $400,000 for single and head-of-household filers, estates, and trusts; (b) $533,000 for married-joint filers; and (c) $266,500 for married-separate filers. However, if an individual's federal AGI, less 30% of the capital gains otherwise eligible for the exclusion, is below the applicable AGI threshold listed above, the individual's exclusion would be reduced by the amount by which their federal AGI exceeds the applicable threshold amount. Increase individual income tax collections by an estimated $185,200,000 in 2023-24 and $154,200,000 in 2024-25 and annually thereafter.

For example, consider a single filer with federal AGI of $450,000, including net long-term, nonfarm capital gains of $200,000. Subtracting 30% of the $200,000 in gains ($60,000) yields an adjusted federal AGI of $390,000, which is below the threshold at which single filers can no longer claim the exclusion under the proposal. In this scenario, the filer could claim the 30% exclusion of $60,000, reduced by the amount by which their federal AGI of $450,000 exceeds the applicable threshold of $400,000 ($50,000), resulting in an allowable exclusion of $10,000.

Under current law, a capital gains exclusion is provided for 60% of the net capital gain from the sale of farm assets and 30% of the net capital gain from the sale of other assets, provided those assets are held more than one year or are acquired from a decedent. Gains from assets held one year or less are fully taxed. The Governor's recommendation would not limit the net capital gain exclusion: (a) for filers electing to be taxed at the entity level; or (b) from the sale of farm assets.

[Bill Sections: 1374 thru 1377]

6. FAMILY CAREGIVER CREDIT

GPR-Tax	- $195,096,700

Beginning in tax year 2023, create a nonrefundable individual income tax credit equal to 50% of the qualified expenses incurred by an individual to benefit a qualified family member. Specify that a qualified family member would mean an individual who: (a) is 18 years of age or older during the relevant tax year; (b) requires assistance with one or more daily living activities,

as certified in writing by a physician (defined as a licensed physician who specializes in family practice, general internal medicine, general pediatrics, obstetrics and gynecology, or psychiatry); and (c) is the claimant's family member (defined as a spouse or an individual related by blood, marriage, or adoption within the 3rd degree of kinship).

Define qualified expenses to mean amounts paid by a claimant in the relevant tax year for items that relate directly to the care or support of a qualified family member, including: (a) the improvement or alteration of the claimant's primary residence to enable or assist the qualified family member to be mobile, safe, or independent; (b) the purchase or lease of equipment to enable or assist the qualified family member to carry out one or more activities of daily living; and (c) the acquisition of goods or services, or support, to assist the claimant in caring for the qualified family member, including employing a home care aide or personal care attendant, adult day care, specialized transportation, legal or financial services, or assistive care technology. However, specify that qualified expenses do not include: (1) general food, clothing, or transportation expenses; (2) ordinary household maintenance or repair expenses that are not directly related or necessary for the care of the qualified family member; or (3) any amount that is paid or reimbursed by insurance or other means.

Specify that the maximum credit that may be claimed in each tax year with regard to a particular qualified family member is $500 ($250 for married-separate filers). Provide that, if more than one individual may claim the family caregiver credit for a particular qualified family member, the maximum credit would have to be apportioned among all eligible claimants based on the ratio of their qualified expenses to the total amount of qualified expenses incurred on behalf of that particular qualified family member, as determined by DOR.

Stipulate that no credit would be allowed for married-joint claimants with federal AGI above $170,000, and that no credit would be allowed for all other filers with federal AGI above $85,000. Provide that, for married-joint claimants with federal AGI above $150,000, the credit amount for which they would otherwise be eligible (subject to the $500 maximum credit limitation) would be reduced by the ratio of the amount by which their federal AGI exceeds $150,000 divided by $20,000. Specify that, for all other filers with federal AGI greater than $75,000, the credit amount for which they would otherwise be eligible (subject to the $500 maximum credit limitation, or $250 for married-separate filers) would be reduced by the ratio of the amount by which their federal AGI exceeds $75,000 divided by $10,000.

Specify that no family caregiver tax credit would be allowed unless it were claimed within four years of the unextended due date of the income tax return to which the claim relates. Prohibit nonresidents and part-year residents of Wisconsin from claiming the credit. Direct that no credit would be allowed for a tax year covering a period of less than 12 months, except for a tax year that was closed because of the death of the taxpayer. Specify that current law provisions which apply to the individual income tax relating to DOR's enforcement authority, and to assessments, refunds, appeals, collection, interest, and penalties, would also apply to this credit. Reduce individual income tax collections by an estimated $96,747,700 in 2023-24 and $98,349,000 in 2024-25 and annually thereafter.

[Bill Sections: 1429 and 1440]

7. EXPAND CHILD AND DEPENDENT CARE CREDIT

GPR-Tax - $55,110,700

Governor: Beginning in tax year 2023, increase the nonrefundable credit for child and dependent care expenses from 50% to 100% of the corresponding federal credit claimed on the claimant's federal income tax return in the same tax year. Reduce estimated individual income tax collections relative to current law by $27,280,800 in 2023-24 and $27,829,900 in 2024-25 and annually thereafter.

Federal law provides an individual income tax credit for child and dependent care expenses that are paid for the purpose of enabling a taxpayer to be gainfully employed. The maximum amount of expenses that can be claimed for the federal credit is $3,000 if the claimant has one qualifying child (under the age of 13) or dependent (generally an individual who is physically or mentally unable to care for himself or herself) and $6,000 if the claimant has more than one qualifying child and/or dependent. The credit is calculated as a percentage of eligible expenses, with the percentage ranging from 35% to 20%, depending on the claimant's federal AGI. Eligible expenses are reduced dollar-for-dollar for any amounts excluded as dependent care assistance benefits under separate provisions of state and federal law. The state credit acts as a supplement to the federal credit and reimburses between 10% and 17.5% of the claimant's eligible expenses.

[Bill Sections: 1435 and 1436]

8. PRE-TAX CONTRIBUTIONS FOR FAMILY MEDICAL LEAVE BENEFITS

GPR-Tax - $20,450,000

Governor: Provide an income and franchise tax subtraction for payroll taxes paid under the family medical leave program. Separate provisions of the bill would create a paid family and medical leave program that provides 12 weeks of benefits for qualified employed and self-employed individuals. Beginning on January 1, 2025, the bill requires each individual employed in this state by an employer that regularly employs at least 50 individuals, including an individual employed by the state, and any self-employed individual who elects coverage under the family and medical leave benefits insurance program to contribute to the trust fund a percentage of his or her wages from employment or income from self-employment. Under the bill, each employer must contribute the same amount as an employee. The bill requires the Department of Workforce Development to collect those contributions into a trust fund in the same manner as it collects contributions to the unemployment reserve fund under current law. [For additional information, see "Department of Workforce Development."]

The Administration estimates that the subtraction for the payroll tax contributions would reduce income and franchise tax collections by $20,450,000 in 2024-25 and $40,900,000 in 2025-26 and annually thereafter. However, the income and franchise tax subtraction was not included in the bill. An amendment would be needed to accomplish the Governor's intent.

9. EXPAND RETIREMENT INCOME EXCLUSION

GPR-Tax - $16,200,000

Governor: Expand the current law exclusion for income received from a qualified

retirement plan by a person aged 65 or older who meets certain income requirements, beginning in tax year 2023. Provide that the maximum annual exclusion is increased to $5,500. Provide that the federal AGI amount at which the exclusion is eliminated is increased to: (a) $30,000 for single and head-of-household filers; and (b) $60,000 for married filers. This provision would reduce individual income tax collections by an estimated $8,100,000 annually, beginning in 2023-24.

Under current law, an exclusion is provided for payments or distributions received each year by an individual from a qualified retirement plan under the IRC, or from an individual retirement account established under specified provisions of federal law, if the individual: (a) is at least 65 years of age before the close of the taxable year to which the exclusion relates; and (b) has federal AGI below $15,000 if a single or head-of-household filer, or below $30,000 (income combined with their spouse) if a married filer. The maximum exclusion under current law is $5,000.

[Bill Sections: 1367, 1368, 1380, 1381, and 1534]

10. UNIVERSAL CHANGING STATIONS CREDIT

GPR-Tax	- $15,900,000

Governor: Create a nonrefundable income and franchise tax credit, beginning in tax year 2023, equal to 50% of the amount the claimant paid during the taxable year to install a universal changing station. No claimant could claim a credit of more than $5,125 in a taxable year. It is estimated that this provision would reduce income and franchise tax revenues by $5,300,000 in 2023-24 and $10,600,000 in 2024-25 and annually thereafter.

A "claimant" would mean a sole proprietor, a partner of a partnership, a member of an LLC, a shareholder of an S corporation, a C corporation, and an insurance company. However, to be eligible for the credit, the claimant must have employed no more than 30 full-time employees and have had gross receipts that did not exceed $1,000,000 in the preceding taxable year. "Full-time employee" would mean an individual who is employed for at least 30 hours per week for 20 or more calendar weeks during a taxable year.

The bill would define a "universal changing station" as a powered and height-adjustable adult changing table that is either floor mounted or wall mounted with a safety rail and can be used by an individual with a disability of either sex and the individual's care provider for personal hygiene and that the changing table: (a) can lower to a height of 8 inches and raise to a height of 34 inches; (b) is at least 31 inches wide by 72 inches long; and (c) supports at least 350 pounds. No credit could be claimed unless the universal changing station is installed in a single-occupant restroom that measures at least 8 feet by 10 feet, with adequate space for a wheelchair and a care provider to maneuver; is equipped with a waste receptacle, a toilet, a lavatory, a soap dispenser, and a paper towel dispenser; and complies with accessibility standards under the federal Americans with Disabilities Act.

Partnerships, LLCs, and S corporations would not be able to claim the credit, but the eligibility for, and the amount of, the credit would be based on the amounts paid by the entity. A partnership, LLC, or S corporation would have to compute the amount of credit that each of its partners, members, or shareholders may claim and provide that information to each of them. Partners, members, and shareholders could claim the credit in proportion to their ownership

interests. According to the Administration, it is intended that the $5,125 limitation on claims would apply to a claimant regardless of the number of universal changing tables installed or the number of businesses the claimant owns which install them.

[Bill Sections: 1369, 1428, 1439, 1445, 1452, 1486, 1487, 1489, 1495, 1516, and 1517]

11. LIMIT PRIVATE SCHOOL TUITION DEDUCTION

GPR-Tax	$13,000,000

Governor: Limit the current law deduction for tuition expenses paid for a student to attend an eligible institution, beginning in tax year 2023. Prohibit individuals with Wisconsin AGI at or above the following thresholds from claiming the deduction: (a) $100,000 for single and head-of-household filers; (b) $150,000 for married-joint filers; and (c) $75,000 for married-separate filers. Increase individual income tax collections by an estimated $6,500,000 in 2023-24 and annually thereafter.

Under current law, an individual may deduct up to $4,000 per year per pupil enrolled in kindergarten through grade eight, and $10,000 per year per pupil enrolled in grades nine through twelve. The pupil must be a dependent of the claimant for federal income tax purposes and must be enrolled in kindergarten or grades one through twelve of a private school (as defined in state law) which meets all the criteria for a private school. The deduction is not allowed if the tuition expenses are paid using a distribution from a 529 account. Under current law, the deduction is not limited based on the taxpayer's AGI.

[Bill Sections: 1378 and 1379]

12. STATE LOW-INCOME HOUSING TAX CREDIT INCREASE

GPR-Tax	- $8,700,000

Governor: Increase the limit on the total amount of state low-income housing credits that may be certified by the Wisconsin Housing and Economic Development Authority (WHEDA) from $42 million to $100 million. In addition, increase the maximum number of years the tax may be claimed from six years to 10 years. Further, require that to be eligible for a state housing credit, qualified low-income housing developments must be allocated the federal low-income housing tax credit and financed with tax-exempt bonds that are subject to the federal volume cap. However, authorize WHEDA to waive, in the Authority's federally required Qualified Action Plan (QAP), the requirements of tax-exempt bond financing and federal credit allocation, to the extent that WHEDA anticipates that sufficient tax-exempt private activity bond volume cap under federal law will not be available to finance low-income housing projects in any year. [See "Wisconsin Housing and Economic Development Authority."]

2017 Wisconsin Act 176 created a state nonrefundable low-income housing tax credit (LIHTC). The credit is claimable against the state individual income tax, the corporate income/franchise tax, and the insurance premiums tax. WHEDA awards the credit as a match to the federal 4% low-income housing tax credit, which provides a credit equal to 4% of the cost of a project each year for 10 years, generally equal to at least 30% of the present value of construction

costs associated with a project. Properties receiving state and federal housing tax credits must reserve at least 20% of units for households with incomes below 50% of county median income, or 40% of units for households with average incomes below 60% of county median income, for at least 30 years. Credits are awarded through a competitive application process, whereby WHEDA assigns scores to the applications based on criteria laid out in the Authority's QAP. Awards are limited to $1.4 million per project. WHEDA is also required by law to give preference to developments located in cities, towns, or villages with populations fewer than 150,000.

Under the current program, WHEDA may award up to $7 million in state tax credits annually, claimable for six years, for a maximum program total of $42 million annually once the program is fully implemented. The bill would increase the program total to $100 million, claimable over 10 years. The Administration estimates the provision would decrease state income and franchise tax revenues by $1,450,000 in 2023-24 and $7,250,000 in 2024-25, fully phasing in to a decrease of $58 million in 2033-34. Combined with the $42 million limit under current law, the credit is estimated to decrease state tax revenues by $100 million annually beginning in 2033-34. The bill as introduced does not specify the initial applicability of changes to the credit.

Under current law, eligible projects are required to be financed with tax-exempt bonds. The bill would require eligible projects to be awarded federal low-income housing credits and be financed with certain tax-exempt bonds that are issued under the state's share of federal volume cap for private economic development or housing purposes. WHEDA could waive these requirements due to having insufficient tax-exempt private activity bonding available under the federal volume cap in a given year.

[Bill Sections: 1426, 1427, 1484 1514, 1515, 1564, 1565, and 2557 thru 2559]

13. DIVIDENDS RECEIVED DEDUCTION LIMITATION

GPR-Tax	$6,400,000

Governor: Specify that corporations may not use the dividends received deduction in computing a net business loss under the state corporate income/franchise tax. Under current law, in determining gross income, corporations may deduct from income dividends received from a corporation with respect to its common stock if the corporation receiving the dividends owns, directly or indirectly, during the entire taxable year, at least 70% of the total combined voting stock of the payor corporation. The bill would specify that this deduction may not be used in computing a net business loss (which may be carried forward for use in up to 20 future tax years under current law). The provision would first apply to taxable years beginning after December 31, 2022. It is estimated that this provision would increase corporate income/franchise tax revenues by $3,200,000 annually, beginning in 2023-24.

[Bill Sections: 1454, 1455, 1496, and 9337(7)]

14. FIRST-TIME HOMEBUYER SAVINGS ACCOUNTS

GPR-Tax	- $4,800,000

Governor: Create a program, administered by DOR, allowing an individual to become an account holder by creating an account, either individually or jointly with his or her spouse, to pay

or reimburse the eligible costs of a first-time homebuyer. Require the accounts to be created at any financial institution, defined as any bank, trust company, savings institution, savings bank, savings and loan association, industrial loan association, consumer finance company, credit union, or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in Wisconsin. Specify that eligible costs would mean the down payment and allowable closing costs, defined as disbursements listed in a settlement statement for the purchase of a single-family residence in Wisconsin by a beneficiary. Limit the program to individuals who reside in Wisconsin and who did not have a present ownership interest, either individually or jointly, in a single-family residence (defined as a residence intended for occupation by a single family unit that is purchased by a beneficiary for use as his or her principal residence) during the 36-month period prior to the month of purchase of a single family residence that is located in Wisconsin.

When an account is created, require the account holder to designate a single account beneficiary who is a first-time homebuyer and who may be the account holder. Allow the account holder to change the beneficiary at any time. Allow individuals to jointly own accounts with their spouses. Provide that an individual may be the account holder of more than one account, but prohibit the account holder from having more than one account that designates the same beneficiary. Permit an individual to be the beneficiary of more than one account. Limit account contributions to cash and marketable securities, and allow persons other than account holders to contribute to accounts. However, stipulate that only the account holder may take the subtraction created under the bill for first-time homebuyer account contributions.

Authorize account holders to withdraw funds from accounts to: (a) pay eligible costs for the benefit of the beneficiary; or (b) reimburse the beneficiary for eligible costs that the beneficiary incurred and paid. Prohibit account holders from using account funds to pay any expenses incurred by the account holder in administering the account, but permit financial institutions to deduct service fees from accounts.

Require account holders each year to submit the following information related to the account to DOR, on forms prepared by the Department, with the account holder's income tax return: (a) a list of account transactions during the tax year, including the account's beginning and ending balances; (b) the 1099 form issued by the financial institution relating to the account; and (c) a list of eligible costs, and other costs, for which account funds were withdrawn during the tax year. Authorize account holders to withdraw and transfer funds to a different financial institution without incurring a withdrawal penalty or affecting the account holder's Wisconsin AGI, provided the transfer occurs immediately and the funds are deposited in a first-time homebuyer savings account at that institution. Require account holders to dissolve an account not later than 120 months (10 years) after its creation, and require financial institutions to distribute any proceeds in dissolved accounts to the account holder. Require proceeds to be distributed to the account holder's estate if the account holder dies while funds remain in the account.

Create the following adjustments to federal AGI when calculating Wisconsin AGI under the state individual income tax. Authorize account holders to subtract from federal AGI the amount of any deposits by the account holder into their accounts, as well as any interest, dividend, or other gain accruing in the account if the interest, dividends, or other gain is redeposited into the account.

Limit the subtraction for each account holder to $5,000 of deposits per year, or $10,000 of deposits per year if the account holder is a married-joint filer, for each account that the account holder creates and to which the account holder makes a deposit (the amount of interest, dividends, or other gains accruing to and subsequently redeposited in the account that may be subtracted from taxable income is not limited). Specify that the subtraction does not apply for any amounts which are transferred to an account at another financial institution. Prohibit an account holder from claiming the subtraction for more than a total of $50,000 of deposits into any account for each beneficiary. Require account holders to increase their AGI to include any distribution of proceeds from a dissolved account, and require account holders' estates to increase the AGI of the estate to include any distribution to an account holder's estate after the death of an account holder. In addition, require account holders to increase their AGI to reflect any amount withdrawn from an account for any reason other than payment or reimbursement of eligible costs, unless the withdrawal is the result of a transfer to an account at a different financial institution, or unless the disbursement is pursuant to a filing for bankruptcy protection. Impose a penalty of 10% on any amounts added to AGI under the preceding provisions.

For federal tax purposes, no deduction for contributions is, or would be, allowed, and the interest earnings that would accrue to accounts would be subject to federal income tax. Since the accounts would be taxable on the "front end," no federal tax would be imposed at the time of withdrawal. Nor would withdrawals trigger a state tax liability, provided the proceeds are used for eligible costs.

Require DOR to prepare and distribute any forms that an account holder would be required to submit and any other forms that the Department believes would be necessary to administer the program and the program's adjustments to income, described above. In addition, require DOR to prepare and distribute program informational materials to financial institutions and potential homebuyers.

Finally, require DOR to impose a penalty on withdrawals from accounts that would be additions to income, as described above, and direct the Department to administer the penalty as it assesses, levies, and collects income and franchise taxes. Specify that the preceding provisions would first apply beginning in tax year 2023. The Administration anticipates that few accounts would be established by the conclusion of calendar year 2023. Therefore, this provision would reduce estimated individual income tax collections by a minimal amount in 2023-24, $4,800,000 in 2024-25, $6,600,000 in 2025-26, and $7,500,000 in 2026-27 and annually thereafter.

[Bill Sections: 1371, 1382, 1442, 1443, 1537, and 9337(6)]

15. REPEAL NET OPERATING LOSS CARRYBACK

GPR-Tax	$4,400,000

Governor: Repeal current law provisions under the individual income tax that allow a net operating loss (NOL) to be carried back for two tax years as an adjustment to federal AGI, beginning in tax year 2023. NOL carrybacks are not allowed under the state's corporate income/franchise tax, and generally, are not allowed for federal tax purposes. Generally, an NOL results when a taxpayer's business deductions exceed the taxpayer's gross income. This provision would not affect current law provisions that allow taxpayers to carry forward NOLs for up to 20

years. This provision would increase individual income tax collections by an estimated $2,900,000 in 2023-24 and $1,500,000 in 2024-25. Over time, the revenue gain from the elimination of loss carrybacks would be offset by the revenue loss due to larger amounts of loss carry forwards.

[Bill Sections: 1383 thru 1386, 1532, 1533, and 9337(5)]

16. FLOOD INSURANCE PREMIUMS CREDIT

GPR-Tax	- $800,000

Governor: Create a nonrefundable individual income tax credit for flood insurance premiums beginning in tax year 2023. Provide that a claimant may claim a credit equal to 10% of the amount of premiums the claimant paid during the tax year for flood insurance. Define flood insurance as a flood insurance policy that covers the principal dwelling of the claimant. Specify that the credit amount could not exceed $60 per tax year.

Specify that no flood insurance premiums tax credit would be allowed unless it were claimed within four years of the unextended due date of the income tax return to which the claim relates. Prohibit nonresidents and part-year residents of Wisconsin from claiming the credit. Direct that no credit would be allowed for a tax year covering a period of less than 12 months, except for a tax year that was closed because of the death of the taxpayer. Specify that current law provisions which apply to the individual income tax and relate to DOR's enforcement authority, and to assessments, refunds, appeals, collection, interest, and penalties, would also apply to this credit. This provision would reduce individual income tax collections by an estimated $400,000 annually, beginning in 2023-24.

[Bill Sections: 1430 and 1441]

17. EXPAND DISABILITY INCOME EXCLUSION

GPR-Tax	- $520,000

Governor: Expand the current law exclusion for certain disability payments received by individuals under age 65 to equal up to $5,500 per year (per disabled spouse if a married-joint filer) or the amount of disability pay reported as income, whichever is less, beginning in tax year 2023. Provide that the exclusion is also made available to otherwise eligible married-separate filers. Increase the maximum federal AGI amounts used to determine eligibility for the exclusion to be less than: (a) $30,000 for single and head-of-household filers; (b) $60,000 for married-joint filers; or (c) if a married-separate filer, $60,000 of total income combined for both spouses. Stipulate that, for filers with federal AGI above these thresholds, no exclusion is permitted. This provision would reduce individual income tax collections by an estimated $260,000 annually, beginning in 2023-24.

Under current law, an exclusion is provided for disability payments, other than disability payments that are paid from a retirement plan, if the individual: (a) is under the age of 65 before the close of the taxable year to which the claim for the exclusion relates; and (b) retired on disability and was permanently and totally disabled upon retirement. If the individual is married, they must choose the married-joint filing status in order to claim the exclusion. The exclusion equals up to $100 of disability income per week, or $5,200 per year (per disabled spouse if a married-joint filer). The exclusion is reduced dollar-for-dollar for the amount by which the

taxpayer's federal AGI exceeds $15,000 (exclusion is eliminated for AGI above $20,200, or $25,400 for married-joint filers if both spouses are disabled). For purposes of the exclusion, permanently and totally disabled means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual is not considered permanently and totally disabled unless proof is furnished in such form and manner, and at such times, as DOR prescribes.

[Bill Sections: 1372 and 1373]

18. SUNSET WORKING FAMILIES CREDIT

GPR-Tax	$250,000

Governor: Sunset the working families credit under the individual income tax, beginning in tax year 2023. Estimate increased individual income tax collections of $125,000 annually, beginning in 2023-24.

Under current law, taxpayers with Wisconsin AGI below $9,000 ($18,000 for married-joint filers) may claim a nonrefundable credit equal to their net tax liability. The credit phases out over the next $1,000 in income until eliminated when AGI exceeds $10,000 ($19,000 married-joint). The credit eliminates state income taxes for single taxpayers with AGI below $9,000 and married couples filing joint returns with AGI below $18,000. This credit is claimed by very few taxpayers because most individuals and families at these income levels do not have a net tax liability due to the standard deduction, personal exemptions, and other credits.

According to DOR, the only filers who claim the credit at present are certain married couples where: (a) one spouse is a Wisconsin resident; (b) the other spouse is a nonresident; and (c) the couple's federal AGI exceeds the Wisconsin resident spouse's Wisconsin AGI. These nonresidents/part-year residents can claim the credit because their state sliding scale standard deduction is based on the greater of Wisconsin AGI or federal AGI, whereas the working families credit is based on Wisconsin AGI alone. If the couple has a federal AGI large enough to significantly reduce or eliminate their state standard deduction, but the Wisconsin resident spouse's Wisconsin AGI is low enough to receive the working families credit, the credit may be claimed.

[Bill Section: 1410]

19. ABLE ACCOUNT TERMINATION ADDBACK

Governor: Provide a statutory modification to stipulate that any amount remaining in a Wisconsin Achieving a Better Life Experience (ABLE) account upon the account's termination that is returned to the account owner's estate would be added back to taxable income. Current law provides identical treatment for any such amounts that remain in the account of a qualified ABLE program of any other state (at present, no Wisconsin ABLE program exists). The provisions that would authorize the creation of an ABLE program in Wisconsin are set forth under separate sections of the bill. [See "Financial Institutions."]

[Bill Section: 1370]

20. DETERMINING HEALTH CARE ELIGIBILITY VIA INDIVIDUAL INCOME TAX RETURNS

Governor: Require DOR to include certain questions and explanatory information on each individual income tax return related to eligibility for certain state and federal health care programs, beginning in tax year 2024. Based on the individual's responses to these questions, require DOR to provide that person's contact information and other relevant information from that person's individual income tax return to the Department of Health Services to perform an evaluation of that person's eligibility for certain programs. [See "Health Services -- Public Assistance Administration."]

[Bill Sections: 1366, 1530, and 9319(1)]

21. TAX LAW CHANGE INTERACTIVE EFFECTS

GPR-Tax	$24,000,000

Governor: Increase income and franchise tax collections by an estimated $11,800,000 in 2023-24 and $12,200,000 in 2024-25 to account for the interactive effects of proposed income and franchise tax changes under the Governor's budget.

General Sales and Use Taxes

1. SALES TAX ON THE ACCESS TO PREWRITTEN COMPUTER SOFTWARE

GPR-Tax	$59,000,000

Governor: Impose the general sales and use tax on the sale of the right to access and use certain prewritten computer software.

Under current law, "prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The sale and purchase of prewritten computer software, where the purchaser takes possession of the software, is currently subject to the sales and use tax. In addition, the entire sales price of a bundled transaction is subject to the sales tax (with certain exceptions), unless the retailer can reasonably identify the nontaxable portion of the price. However, the sale of the right to access and use prewritten computer software (without taking possession) is considered a nontaxable service under current law.

Under the bill, the sale of the right to access and use prewritten computer software, where possession of the prewritten computer software is maintained by the seller or a third party, including sales made on a per use, per user, per license, subscription, or some other basis, would become a taxable service. This provision would include the sale of the right to access and use prewritten computer software to perform data processing and information services, regardless of whether the primary purpose of the transaction is the processed data. Processed data would include

processing for checks, images, forms, surveys, payrolls, claims, and other similar activities. The Administration indicates that this provision would establish parity on the sale and use of prewritten computer software, regardless of whether the software is owned by the purchaser or is accessed via a subscription or through the internet (Software as a Service).

The provision would take effect on the first day of the sixth month beginning after publication of the bill. The Administration estimates that this expansion of the sales and use tax would increase state tax revenues by $18,100,000 in 2023-24 and $40,900,000 in 2024-25 and annually thereafter.

[Bill Sections: 1583 and 9437(7)]

2. SALES TAX EXEMPTION FOR DIAPERS AND FEMININE HYGIENE PRODUCTS

GPR-Tax	- $32,800,000

Governor: Provide an exemption from the general sales and use tax for sales of diapers and feminine hygiene products.

Define the following terms under the general sales and use tax:

a. "Diaper" would mean an absorbent garment worn by humans who are incapable of or have difficulty controlling their bladder or bowel movements.

b. "Feminine hygiene products" would mean tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for feminine hygiene in connection with the human menstrual cycle. However, "feminine hygiene products" would not include "grooming and hygiene products."

c. "Grooming and hygiene products" would mean soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and screens.

The provision would take effect on the first day of the third month beginning after publication of the bill. The Administration estimates that this exemption would reduce state tax revenues by $13,700,000 in 2023-24 and $19,100,000 in 2024-25 and annually thereafter.

[Bill Sections: 1575 thru 1577, 1586, 1587, 1601, and 9437(5)]

3. SALES TAX ON MARIJUANA

GPR-Tax	$10,200,000

Governor: Provide an exemption from the general sales and use tax for sales of medical marijuana, if the purchaser holds a valid tax exemption certificate that indicates they are a member of the medical marijuana registry. The state sales and use tax would apply to retail sales of usable (recreational) marijuana.

Under current law, sales of marijuana are subject to the sales tax as tangible personal property. However, taxes generally are not collected and remitted on such sales, as marijuana is

an illegal substance. The bill would legalize the sale of marijuana for medical and recreational purposes. As a result, sales tax would be collected by retailers on legal recreational marijuana sales. Retail excise taxes imposed on marijuana would be included in the sales price subject to the state sales and use tax.

The provision would take effect on the effective date of the bill. However, the Administration indicates that it did not estimate a fiscal effect until 2024-25, as it is uncertain how long it will take for marijuana permits to be issued and for legal sales to be made. The Administration estimates the sales and use tax on recreational marijuana would increase state tax revenues by $10,200,000 in 2024-25 and annually thereafter.

The legalization of the sale of marijuana, the creation of the medical marijuana registry, and the imposition of excise taxes on marijuana would be authorized under separate provisions of the bill. [For additional information, see "Marijuana-Related Provisions."]

[Bill Section: 1602]

4. SALES TAX EXEMPTION FOR ENERGY SYSTEMS

GPR-Tax	- $4,200,000

Governor: Expand the current law exemption from the state sales and use tax to include tangible personal property used to store or facilitate the storage of electrical or heat energy produced by a solar, wind, or biogas renewable energy system.

Under current law, an exemption from the sales and use tax exists for a product that has as its power source wind energy, direct radiant energy received from the sun, or gas generated from anaerobic digestion of animal manure and other agricultural waste, if the product produces at least 200 watts of alternating current or 600 British thermal units per day. The exemption also applies to the sale of electricity or energy produced by these products, but does not apply to an uninterruptible power source that is designed primarily for computers.

The bill would modify current law so the exemption applies to solar, wind, and waste energy systems that produce usable electrical or heat energy, rather than solely to products whose power source is solar, wind, or waste energy. The bill specifies that tax exempt solar power systems, wind energy systems, and waste energy systems would include tangible personal property sold with the systems that is used primarily to store or facilitate the storage of electrical or heat energy produced by the systems. Therefore, the exemption would apply to products producing power from renewable energy sources, as well as products used to store that energy, relative to current law. The exemption would not apply for sales of tangible personal property designed for any use other than for a solar, wind, or waste energy system. Sales of an uninterruptible power source designed primarily for computers would remain taxable under the bill.

The bill would also make the following modifications to the current law exemption:

a. Specify that, to qualify for the exemption, energy systems must continuously, rather than per day, produce at least 200 watts of alternating current or 600 British thermal units;

b. Clarify that tax exempt energy produced by the systems includes electrical and heat

energy; and

c. Specify that the production of electrical or heat energy must come directly from sun, wind, or gas generated from anaerobic digestion of animal manure or other agricultural waste.

The provision would take effect on the first day of the third month beginning after publication of the bill. The Administration estimates that this exemption would decrease state tax revenues by $1,700,000 in 2023-24 and $2,500,000 in 2024-25 and annually thereafter.

[Bill Sections: 1596 thru 1598 and 9437(1)]

5. SALES TAX EXEMPTION FOR BREASTFEEDING EQUIPMENT

GPR-Tax	- $1,190,000

Governor: Provide an exemption from the general sales and use tax for breast pumps, breast pump kits, and breast pump storage and collection supplies. This provision would take effect on the first day of the third month beginning after publication of the bill. The Administration estimates that this exemption would reduce state tax revenues by $510,000 in 2023-24 and $680,000 in 2024-25 and annually thereafter.

[Bill Sections: 1603 and 9437(5)]

6. SALES TAX EXEMPTION FOR CERTAIN PLANNING AND COUNSELING SERVICES

GPR-Tax	- $1,000,000

Governor: Provide a sales and use tax exemption for landscape planning and counseling services that pertain to the restoration, reclamation, or revitalization of prairie, savanna, or wetlands, if such services are provided under a separate and optional fee distinct and identifiable from other taxable services.

Under current law, all services are exempt from the state sales and use tax unless specifically made taxable by statute. State law specifies that the sale of landscaping and lawn maintenance services is taxable, including: (a) landscape planning and counseling; (b) lawn and garden services, such as planting, mowing, spraying, and fertilizing; and (c) shrub and tree services. The bill would specify that landscaping and lawn maintenance services do not include planning and counseling services, if the planning and counseling services are provided for a separate and optional fee from any other services and the services are for the restoration, reclamation, or revitalization of prairie, savanna, or wetlands to improve: (1) biodiversity; (2) the quality of land, soils, or water; or (3) other ecosystem functions.

The bill would define a "separate and optional fee" as a fee charged to receive a distinct and identifiable product if either of the following would apply.

a. The fee is in addition to fees that the seller charges for other distinct and identifiable products sold to the same buyer, the fee is separately set forth on the invoice given by the seller to the buyer, and the seller does not require the buyer to pay the fee if the buyer chooses not to receive

the additional distinct and identifiable product for which the fee applies.

b. The seller charges a single amount for multiple distinct and identifiable products and offers the buyer the option of paying a lower amount if the buyer chooses not to receive one or more of the distinct and identifiable products. The separate and optional fee would have to be a single amount the seller charges for the multiple distinct and identifiable products, less the reduced amount the seller charges to the buyer because the buyer chooses not to receive one or more of the products.

According to the Administration, the bill is intended to specify that the exemption for qualifying planning and counseling services provided for a separate and optional fee would apply to tangible personal property physically transferred, or transferred electronically, to the customer in conjunction with those services. Instead, the provider of the exempt services and property would be subject to the sales and use tax when they purchase the tangible personal property. [A technical amendment is needed to reflect this intent and to remove cross-references to services that are unnecessary in accomplishing the intent of this provision.]

The provision would take effect on the first day of the third month following publication of the bill. The Administration estimates that this exemption would reduce state tax revenues by $400,000 in 2023-24 and $600,000 in 2024-25 and annually thereafter.

[Bill Sections: 1578, 1581, 1582, 1584, 1585, and 9437(2)]

7. SALES TAX EXEMPTION FOR GUN SAFES, TRIGGER LOCKS, AND GUN BARREL LOCKS

GPR-Tax	- $540,000

Governor: Provide an exemption from the general sales and use tax for sales of gun safes, trigger locks, and gun barrel locks. Specify that the exemption for gun safes would only apply to gun safes that are specifically designed for the storage of guns and would not apply to other items used for gun storage (such as locking gun cabinets and racks). This provision would take effect on the first day of the third month beginning after publication of the bill. The Administration estimates that this exemption would reduce state tax revenues by $230,000 in 2023-24 and $310,000 in 2024-25 and annually thereafter.

[Bill Sections: 1604 and 9437(5)]

8. REPEAL SALES TAX EXEMPTION FOR FARM-RAISED DEER

GPR-Tax	$210,000

Governor: Repeal the exemption from the general sales and use tax for farm-raised deer sold to a person who is operating a hunting preserve or game farm in this state. This provision would take effect on the first day of the third month beginning after publication of the bill. The Administration estimates the repeal of this exemption would increase state tax revenues by $90,000 in 2023-24 and $120,000 in 2024-25.

[Bill Sections: 1600 and 9437(6)]

9. SALES TAX EXEMPTION FOR LOCAL PROFESSIONAL BASEBALL PARK DISTRICTS

Governor: Provide an exemption from the general sales and use tax for sales to a local professional baseball park district established under state law (which would be modified and expanded under the bill). The Administration estimates that this provision would have a minimal effect on general fund tax collections. Separate provisions of the bill would make various changes to professional baseball park districts. [For additional information, see "Professional Baseball Park District."]

[Bill Section: 1590]

10. SALES TAX EXEMPTION FOR IMPROVEMENTS TO BASEBALL PARK DISTRICTS AND DEVELOPMENTS

Governor: Provide an exemption from the general sales and use tax for sales of building materials used to construct, develop, improve, renovate, repair, or maintain property that constitutes a baseball park development, as created and defined under separate provisions of the bill. Such baseball park development property would include property operated by a professional baseball team, including the following facilities: (a) retail; (b) hospitality; (c) commercial and residential; (d) health care; and (e) any others that are functionally related or auxiliary.

Expand the current law exemption from the sales and use tax to include sales of building materials used to improve, repair, or maintain a home stadium for any professional athletic team participating in a multistate league that is exempt from property taxation (including baseball park development property). Under current law, sales of building materials to owners, contractors, subcontractors, or builders, if these materials are used solely to construct, develop, or renovate a home stadium for any professional athletic team participating in a multistate league are exempt from the sales and use tax. This provision would expand that exemption to also include sales of building materials used for improvements, repairs, or maintenance of such stadiums.

The Administration estimates that this provision would have a minimal effect on general fund tax collections. [For additional information, see "Professional Baseball Park District".]

[Bill Sections: 1282, 1595, and 2466]

11. SALES TAX EXEMPTION FOR TRANSIT AUTHORITIES

Governor: Provide an exemption from the general sales and use tax for sales to any transit authority that would be created under separate provisions of the bill. The Administration estimates that this provision would have a minimal effect on general fund tax collections. [For additional information, see "Regional Transit Authorities."]

[Bill Section: 1589]

Excise Taxes and Other Taxes

1. VAPOR PRODUCTS TAX

GPR-Tax	$22,400,000

Governor: Convert the vapor products tax from a unit-based tax to a price-based tax. Impose the tax at the rate of 71% of the manufacturer's established list price to distributors in this state and expand the definition of vapor products subject to tax. Specify that the tax would be imposed without diminution by volume or other discounts on domestic products. Clarify that, for vapor products imported from another country, the rate of tax is 71% of the amount obtained by adding the manufacturer's list price to the federal tax, duties, and transportation costs to the United States.

Under current law, vapor products are taxed at a rate of 5¢ per milliliter of the liquid. A taxable vapor product is defined as a noncombustible product that produces vapor or aerosol for inhalation from the application of a heating element to a liquid or other substance that is depleted as the product is used, regardless of whether the liquid or other substance contains nicotine. Under this definition, the tax on vapor products applies to a liquid or other substance that functions as part of a vapor product or is sold with a vapor product as one packaged item. Liquids sold separately from a heating element are not subject to the tax.

The bill would modify the definition of a vapor product to mean a noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means that can be used to produce vapor from a solution or other substance, regardless of the product's shape or size or whether the product contains nicotine. A vapor product would include an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and would include any cartridge or other container of a solution or other substance that is intended to be used with such a device, regardless of whether the solution or other substance contains nicotine. Therefore, in contrast to current law, the tax on vapor products would apply both to the vapor product device and to the liquid, whether sold separately or together.

A vapor product would not include certain products regulated as a drug or device under federal law, of which it has been determined that the health benefits outweigh the known risks. DOR indicates the intent of this provision is to exempt products approved for smoking cessation by the federal Food and Drug Administration from the definition of taxable vapor products.

The provision would take effect on the first day of the third month beginning after publication of the bill. The Administration estimates that this provision would increase state tax revenues by $9,200,000 in 2023-24 and $13,200,000 in 2024-25 and annually thereafter. The Administration did not estimate any change to cigarette and tobacco tribal refunds as a result of this provision (at present, the state has not entered into any agreements to refund vapor products taxes to tribes).

[Bill Sections: 2276, 2281, 2282, 2286, 2287, 2291, and 9437(4)]

2. IMPOSE CIGARETTE TAX ON LITTLE CIGARS

GPR-Tax	$5,500,000

Governor: Change the tobacco products tax imposed on little cigars to be set at the same rate as the excise tax rate currently imposed on cigarettes as follows. Current law makes no distinction between little cigars and other cigars for purposes of the tobacco products tax. The bill would specifically define cigars and little cigars. A little cigar would mean a cigar that has an integrated cellulose acetate filter and is wrapped in a substance containing tobacco. A cigar would mean a roll, of any size or shape, of tobacco for smoking that is made wholly or in part of tobacco, regardless of whether the tobacco is pure, flavored, adulterated, or mixed with an ingredient if the roll has a wrapper made wholly or in part of tobacco. Little cigars would be enumerated in the definition of tobacco products.

Under current law, an excise tax is imposed on the sale, use, storage, offering, possession with intent to sell or remove for consumption, or other disposition of tobacco products, including cigars and little cigars, at the rate of 71% of the manufacturer's established list price to distributors, not to exceed 50¢ per cigar or little cigar. While the tax on cigars would remain taxed at the same rate imposed under current law, the bill would impose a tax on little cigars at a rate of 126 mills per little cigar ($1.26 per 10), regardless of weight. [A mill equals one-tenth of one cent. Therefore, a rate of 126 mills per little cigar = $2.52 per pack of 20.] For little cigars, the tax rate would be the same as that levied on cigarettes weighing not more than three pounds per thousand under current law. In addition, the cigar tax limit under current law of 50¢ per cigar or little cigar would no longer apply to the taxation of little cigars under the bill.

The following administrative and enforcement provisions under current law governing the taxation of cigarettes would also apply to the administration and enforcement of the tax on little cigars: (a) the imposition of an inventory tax on little cigars held in inventory for sale or resale; (b) the affixing of stamps to each package of little cigars prior to their first sale in Wisconsin to denote tax paid; (c) discounts for purchasers of tax stamps at 0.8% of the tax paid; (d) penalties, including imprisonment, for possessing little cigars for which no tax has been paid; (e) the placement of a security bond with DOR, in the amount determined by the Department, if taxes are not paid; (f) the requirement that manufacturers, distributors, and sellers of little cigars obtain a seller's permit; (g) prohibiting the transfer of stamps to another person; (h) refunds for unusable stamps; (i) the option for distributors to claim a bad debt deduction for little cigar taxes written off as uncollectible; (j) the treatment of a little cigar permittee as a preferred creditor of any tax amounts owed by a purchaser of little cigars; (k) record-keeping requirements at each level of the little cigar distribution chain; (l) the treatment as theft: any little cigar tax monies fraudulently withheld, appropriated, or otherwise used; (m) the prohibition of house to house sales of little cigars; (n) the treatment of any sale of little cigars without a permit as a public nuisance; and (o) the restriction of municipalities from adopting any little cigar regulations that are not in strict conformity with state law. The inventory tax in "a" would be calculated by multiplying the number of little cigars and the number of un-affixed stamps held in inventory by the difference between the prior tax rate and the new tax rate.

The provision would take effect on the first day of the third month beginning after publication of the bill. The Administration estimates that imposing the cigarette tax on little cigars would increase state tax revenues by $2,300,000 in 2023-24 and $3,200,000 in 2024-25 and

annually thereafter. As noted, an inventory tax on little cigars would be imposed under the Governor's recommendation. However, the Administration did not include any revenues associated with the imposition of the inventory tax. The Administration estimated a minimal change in tribal refunds as a result of this provision.

[Bill Sections: 2275, 2277, 2278, 2280, 2284, 2285, 2289, 2290, 2292, 2293, and 9437(3)]

3. DEFINE MANUFACTURER'S LIST PRICE

Governor: Define manufacturer's list price as the total price of tobacco products charged by the manufacturer or other seller to an unrelated distributor. The total price would include all charges by the manufacturer or other seller that are necessary to complete the sale, and could not be reduced by any cost or expense incurred by the manufacturer or other seller, such as fees, delivery, freight, transportation, packaging, handling, marketing, federal excise taxes, and import fees or duties, regardless of whether such cost or expense is separately stated on an invoice. The total price also could not be reduced by the value or cost of discounts or free promotional or sample products. A manufacturer or other seller would be considered related to a distributor if the two parties have significant common purposes and have either substantial common membership or, directly or indirectly, have substantial common direction or control. [A technical amendment is needed to accomplish the Governor's intent that this definition also apply to vapor products.]

Current law does not specifically define manufacturer's list price for purposes of the tobacco products tax. The Administration indicates an explicit statutory definition is needed to clarify in state law the calculation of the excise taxes on these products. This provision is intended to take effect on the first day of the third month beginning after publication of the bill. [The Administration indicates that a technical amendment is needed to specify the delayed effective date of this provision.]

[Bill Sections: 2279, 2283, and 2288]

4. REAL ESTATE TRANSFER FEE EXEMPTION FOR RELATED ENTITIES

Governor: Expand the current law exemption from the real estate transfer fee for certain conveyances between family-owned business entities and their respective owners to include conveyances between: (a) uncles and their nieces and nephews; (b) aunts and their nieces and nephews; and (c) first cousins.

Under current law, the real estate transfer fee is imposed on the seller of real estate at a rate of $3.00 per $1,000 of value. The county where the property is located retains 20% of revenues from the fee and remits the remaining 80% to the state. Certain exemptions from the fee are provided, including exemptions for conveyances between certain family-owned corporations, partnerships, or LLCs and their respective shareholders, partners, or members, if the transfers are for: (a) no consideration except the assumption of debt or stock of the corporation if the corporation owned the property for at least three years; or (b) the assumption of debt or an interest in the partnership or LLC. Such conveyances are exempt under current law if the shareholders, partners,

or members are related to each other as spouses, lineal ascendants, lineal descendants, or siblings, whether by blood or by adoption, or as spouses of siblings. Under the bill, such transfers would also be exempt from the real estate transfer fee if made between: (1) uncles and their nieces and nephews; (2) aunts and their nieces and nephews; and (3) first cousins.

The provision would first apply to real estate transfer fee returns filed on the effective date of the bill. The Administration estimates the provision would reduce general fund tax collections by an indeterminate amount.

[Bill Sections: 1572 thru 1574 and 9337(11)]

5. NOTICE OF UTILITY TAXES BY CERTIFIED MAIL

Governor: Eliminate the requirement that ad valorem public utility tax notices be sent by certified mail. Under current law, DOR must annually assess the value of property of all ad valorem public utility companies, including railroads, air carriers, pipeline companies, telephone companies, and conservation and regulation companies, for purposes of levying and collecting public utility taxes. The Department is required to provide, via certified mail, the following information: (a) a notice to each company assessed of the amount of its assessment or adjustment; (b) a notice of a scheduled hearing or presentation requested by the company; (c) any order from DOR after the requested hearing; and (d) the notice of tax due, including any reassessment of tax due. The bill would remove reference to a specific mode of communication, allowing DOR to choose how notices are provided to assessed companies. The Administration indicates that delivery by certified mail is no longer necessary, as quick and secure electronic communications are now available.

[Bill Sections: 1552 and 1557 thru 1560]

General Fund Tax Transfers

1. GENERAL FUND TAX TRANSFERS TO THE TRANSPORTATION FUND

Governor: Under current law, 0.25% of estimated general fund taxes that are designated as "Taxes" in the general fund summary published in the biennial budget act are transferred to the transportation fund. This provision would be retained, and the associated transfer would be $54,326,400 in 2023-24 and $56,363,000 in 2024-25 under the Governor's budget.

Additional tax transfers proposed under the bill are discussed in the following entries. The table below shows total general fund tax transfers to the transportation fund under the bill.

General Fund Tax Transfers to the Transportation Fund

	2023-24	2024-25
Current Law 0.25% Transfer	$54,326,400	$56,363,000
Automotive Parts Sales Tax Transfer	43,625,700	52,895,500
Electric Vehicle Sales Tax Transfer	39,300,000	55,100,000
Total General Fund Tax Transfers	$137,252,100	$164,358,500
Transfers as % of General Fund Taxes	0.63%	0.73%

2. TRANSFER OF SALES TAX GENERATED BY AUTOMOTIVE PART SALES

Governor: Require the Secretary of the Department of Administration (DOA) to transfer, annually, from the general fund to the transportation fund, an amount approximating the difference between the sales tax generated from the sale of automotive parts, accessories, tires, and repair and maintenance services in 2020-21 and the amount of sales tax generated from such sales in the fiscal year of the transfer. [A technical amendment would be needed to clarify the Administration's intent that 2019-20 (rather than 2020-21) would be the base year for this calculation.] Specify that this amount would be calculated by DOA and the first transfer would occur on June 30, 2024. The Administration estimates transfers of $43,625,700 in 2023-24 and $52,895,500 in 2024-25. [For additional information, see "Transportation -- Transportation Finance."]

[Bill Section: 125]

3. TRANSFER OF SALES TAX GENERATED BY ELECTRIC VEHICLE SALES

Governor: Require the DOA Secretary to transfer, annually, from the general fund to the transportation fund, an amount approximating the sales tax generated by the sale of electric vehicles in this state. Specify that this amount would be calculated by DOA and the first transfer would occur on June 30, 2024. Further specify that, beginning in 2025-26, the amount transferred could not exceed 120% of the previous year's transfer, or $75,000,000, whichever is less. The Administration estimates transfers of $39,300,000 in 2023-24 and $55,100,000 in 2024-25. [For additional information, see "Transportation -- Transportation Finance."]

[Bill Section: 124]

Refundable Tax Credits and Other Payments

1. EARNED INCOME CREDIT REESTIMATE

GPR	$3,312,000
PR	- 6,473,000
Total	- $3,161,000

Governor: Increase estimated GPR expenditures for the state earned

income tax credit (EITC) by $954,000 in 2023-24 and $2,358,000 in 2024-25. Decrease PR expenditures for the EITC by $4,875,000 in 2023-24 and $1,598,000 in 2024-25. Base GPR funding for the EITC is currently estimated at $25,500,000, and estimated base PR funding is $66,600,000. Total GPR funding for the EITC is estimated at $26,454,000 in 2023-24 and $27,858,000 in 2024-25. Total PR funding for the EITC is estimated at $61,725,000 in 2023-24 and $65,002,000 in 2024-25.

Under current law, the state EITC is paid from two sources: (a) a sum sufficient GPR appropriation; and (b) federal funding from the Temporary Assistance to Needy Families (TANF) program. TANF funding may be used under current law to finance the refundable portion of the state EITC, while GPR is used to finance the nonrefundable portion.

2. EXPAND EARNED INCOME CREDIT

GPR	$37,420,000
PR	87,080,000
Total	$124,500,000

Governor: Expand the state EITC for eligible claimants with one qualifying child and with two qualifying children. Specify that the percentage of the federal EITC that may be claimed as a state credit would be increased to 16% for claimants with one qualifying child and to 25% for claimants with two qualifying children, beginning in tax year 2023. Increase estimated state GPR expenditures by $18,280,000 in 2023-24 and $19,140,000 in 2024-25. Increase PR expenditures from the TANF program by $42,420,000 in 2023-24 and $44,660,000 in 2024-25.

Under current law, the state EITC is provided as a percentage of the federal EITC that varies based on the claimant's number of qualifying children. The credit percentages are 4% for one qualifying child, 11% for two qualifying children, and 34% for three or more qualifying children. The state EITC is not available to taxpayers without qualifying children.

[Bill Sections: 1432, 1433, and 1542]

3. HOMESTEAD CREDIT REESTIMATE

GPR	- $7,900,000

Governor: Decrease estimated expenditures under the homestead tax credit program by $2,300,000 in 2023-24 and $5,600,000 in 2024-25. Compared to base funding of $47,300,000, estimated expenditures would be $45,000,000 in 2023-24 and $41,700,000 in 2024-25.

Under current law, the homestead credit is provided as a property tax relief mechanism for lower-income homeowners and renters. The credit is refundable, such that if the amount of the credit exceeds a claimant's tax liability, a check is issued to the claimant for the difference.

4. HOMESTEAD CREDIT EXPANSION

GPR	$99,400,000

Governor: Increase the income threshold above which no credit is allowed (maximum income level) to $35,000, and reduce the rate at which the credit phases out (phase-out rate) to 5.614%, beginning in tax year 2023. Direct that the following formula factors of the credit would be indexed for inflation annually, beginning in tax year 2024: (a) the income threshold for the

maximum credit; (b) the maximum income level to receive the credit; and (c) the maximum allowable property taxes or rent constituting property taxes. Calculate the indexing adjustment in each year as an increase based on the percentage change in the consumer price index (CPI). Calculate the percentage as the change in the 12-month average of the index for the period ending in July of the previous year, relative to the claim, and beginning with the previous August, and the 12-month average of the index for the period August, 2021, through July, 2022. Prohibit the adjustment from occurring unless the percentage is a positive amount. Define the CPI as the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor. Statutory modifications would be made to clarify the current law provisions under which a claimant cannot claim the credit if the claimant does not have earned income during the calendar year, unless the claimant or the claimant's spouse is disabled or is over the age of 61. This provision would increase estimated state GPR expenditures by $43,200,000 in 2023-24 and $56,200,000 in 2024-25.

Under current law, the maximum income level is $24,680, and the phase-out rate is 8.785%. The other formula factors of the credit under current law are as follows: (a) the maximum allowable property taxes or rent constituting property taxes is $1,460; (b) the income threshold for the maximum credit is $8,060; and (c) the percentage of property taxes reimbursed is 80%. These factors produce a maximum credit of $1,168. The formula factors were last modified in tax year 2010.

According to the Administration, the intent of this provision is to index for inflation beginning in tax year 2023: (a) the maximum allowable property taxes or rent constituting property taxes; and (b) the income threshold for the maximum credit. Annually thereafter, these parameters, as well as the proposed maximum income level of $35,000 for tax year 2023, would be indexed for inflation. The bill would need to be amended to accomplish the Administration's intent.

[Bill Sections: 1520 thru 1528 and 9337(2)]

5. REFUNDABLE RESEARCH CREDIT REESTIMATE

GPR	- $15,000,000

Governor: Decrease funding for refundable research tax credit claims by $7,500,000 annually. With the adjustments, estimated total funding would decrease from $21,000,000 to $13,500,000 annually. For comparison, DOR reports that credit usage for fiscal year 2022-23 through January, 2023, is $13.8 million.

The state provides research credits to businesses equal to a percentage of the increase in a business's qualified research expenses, as defined under the IRC, for research conducted in Wisconsin. For taxable years beginning on or after January 1, 2020, up to 15% of the amount of new credits computed may be claimed as a refundable credit. The remaining portion of the credit is nonrefundable. The amounts shown above reflect only the estimated cost of the refundable portion of research credit claims.

6. INCREASE REFUNDABLE PORTION OF RESEARCH CREDIT

GPR	$64,400,000
GPR-Tax	- $16,100,000

Governor: Modify the partially refundable research tax credit (including the engine and energy efficiency credits), as computed under current law, to increase the refundable portion from up to 15% of the credit amount to up to 50% of the credit amount. Specify that this provision would first apply to new research credit claims for taxable years beginning after December 31, 2023. Estimate decreased income and franchise tax revenues of $16,100,000 GPR-Tax in 2023-24 and increased expenditures for refundable research credit claims of $64,400,000 GPR annually, beginning in 2024-25.

[Bill Sections: 1406 thru 1408, 1474, 1475, 1512, and 1513]

7. ENTERPRISE ZONE CREDIT REESTIMATE

GPR	- $65,360,000

Governor: Decrease funding by $23,398,000 in 2023-24 and $41,962,000 in 2024-25 for the sum sufficient appropriation for refundable enterprise zone tax credits to reestimate anticipated claims during the 2023-25 biennium. The reestimate reflects projections of credit claims for major economic development projects for which WEDC has, to date, contracted and amended tax credit awards. With the adjustments, estimated total funding would decrease from base funding of $77,500,000 to $54,102,000 in 2023-24 and $35,538,000 in 2024-25. Businesses that operate in enterprise zones established by WEDC can claim tax credits for jobs created and retained, training costs, capital expenditures, and purchases from Wisconsin vendors.

8. ENTERPRISE ZONE LIMIT

Governor: Modify the procedure used for designating zones under the enterprise zone tax credit program to generally conform with the law previous to 2017 Act 369, as described below.

Under current law, WEDC may designate an unlimited number of enterprise zones, with each designation subject to approval by the Joint Committee on Finance under a 14-day passive review process. WEDC must notify the Committee in writing of its intent to designate a new enterprise zone, including a description of the new zone and the purpose for which WEDC proposes to designate the new zone. Further, the Committee must approve a zone before WEDC may designate a new enterprise zone, but WEDC may designate an unlimited number of zones, so long as each zone is so approved by the Committee.

The bill would repeal these provisions. Instead, the bill would allow WEDC to designate new zones under the enterprise zone tax credit program without the approval of the Committee, but would specify that no more than 30 zones may be designated in total (the same limit in effect prior to Act 369). The bill would restore the pre-Act 369 provision that, if WEDC revokes all certifications for tax benefits within a previously designated enterprise zone, WEDC may cancel the designation of that enterprise zone. After canceling the designation of an enterprise zone, WEDC may designate a new enterprise zone subject to the proposed 30-zone limit. As of the day of introduction of the bill, there were 19 zones open under contract, of which 18 were currently active that may still be verified for additional credits. The foregoing provisions would not require

WEDC to revoke a certification for tax benefits that is in effect on the effective date of the bill.

The Governor's recommendation does not include any estimated increased (or decreased) expenditures as a result of this provision.

[Bill Sections: 2575 thru 2577 and 9149(1)]

9. VETERANS PROPERTY TAX CREDIT REESTIMATE

GPR	- $500,000

Governor: Decrease funding for the veterans and surviving spouses property tax credit by $1,000,000 in 2023-24 and increase funding by $500,000 in 2024-25. Compared to base funding of $50,000,000, total funding for the credit is estimated at $49,000,000 in 2023-24 and $50,500,000 in 2024-25.

Under current law, the credit is equal to 100% of real and personal property taxes paid on a principal dwelling by eligible veterans and surviving spouses. The credit is refundable, such that if the amount of the credit exceeds the claimant's tax liability, the balance is paid to the claimant by check via a sum sufficient GPR appropriation. A claimant cannot claim the credit if they also file a claim for the property tax/rent credit (nonrefundable), homestead credit (refundable), or farmland preservation credit (refundable) in the same tax year.

10. VETERANS PROPERTY TAX CREDIT FOR 70% DISABILITY RATING

GPR	$43,200,000

Governor: Extend eligibility for the current law veterans and surviving spouses property tax credit to otherwise eligible veterans with a service-connected disability rating of at least 70%, and to the unremarried surviving spouses of such veterans, beginning in tax year 2023. Stipulate that the credit amount for veterans with a service-connected disability rating of less than 100% is calculated by multiplying the disability rating by the amount of property taxes the claimant could otherwise claim. Under this provision, GPR expenditures for the credit are estimated to increase by $21,100,000 in 2023-24 and $22,100,000 in 2024-25 and annually thereafter.

Under current law, the veterans and surviving spouses property tax credit is equal to 100% of real and personal property taxes paid on a principal dwelling by eligible veterans and surviving spouses. An eligible veteran is a person who: (a) served on active duty in the U.S. armed forces; (b) was a resident of Wisconsin at the time of entry into that service or had been a Wisconsin resident for any consecutive five-year period after entry; (c) is a resident of Wisconsin for purposes of receiving veterans benefits; and (d) has a service-connected disability rating of 100% or a 100% disability rating based on individual employability. An eligible unremarried surviving spouse includes persons: (1) who receive federal dependency and indemnity compensation as a result of the deceased spouse's active duty service; (2) whose spouse died while on active duty in the U.S. armed forces, the National Guard, or the U.S. armed forces reserves; or (3) whose deceased spouse had a service-connected disability rating of 100% or an equivalent rating based on individual employability. For a surviving spouse to be eligible for the credit, the deceased veteran must have been a Wisconsin resident at the time of entry into service, or a Wisconsin resident for any

consecutive five-year period preceding death and after entry into service.

[Bill Sections: 1419, 1420, 1425, and 9337(4)]

11. VETERANS PROPERTY TAX CREDIT FOR RENTERS

GPR	$10,300,000

Governor: Expand the veterans and surviving spouses property tax credit by providing the credit to eligible renters, beginning in tax year 2023. An eligible claimant could claim the credit for 100% of their rent constituting property taxes. "Rent constituting property taxes" would have the same definition as under the current law property tax rent credit (generally 25% of rent if heat is not included in rent, or 20% of rent if heat is included). For married-separate filers, each spouse could claim the rent credit based on 50% of the total rent constituting property taxes paid during the taxable year for the eligible veteran's principal dwelling.

Under current law, a renter may claim the credit if they make property tax payments directly to the municipality (if the landlord does not remit such payments on their behalf). This provision would increase estimated state GPR expenditures by $5,100,000 in 2023-24 and $5,200,000 in 2024-25 and annually thereafter.

[Bill Sections: 1422 thru 1424 and 9337(3)]

12. ILLINOIS-WISCONSIN RECIPROCITY REESTIMATE

GPR	$42,884,000

Governor: Increase the estimated payment under the Illinois-Wisconsin individual income tax reciprocity agreement by $21,442,000 in 2023-24 and 2024-25 to reflect anticipated payments to Illinois in the 2023-25 biennium. Compared to base funding of $118,000,000, total funding is estimated at $139,442,000 in 2023-24 and 2024-25.

13. BUSINESS DEVELOPMENT CREDIT REESTIMATE

GPR	- $6,464,000

Governor: Reduce funding by $4,796,000 in 2023-24 and $1,668,000 in 2024-25 for the sum sufficient appropriation for business development tax credits to reestimate anticipated claims during the 2023-25 biennium. The reestimate reflects the Administration's projections of credit claims for economic development projects for which WEDC has entered into contracts, and is expected to enter into future contracts, to award tax credits. With the adjustments, estimated total funding would decrease from base funding of $11,700,000 to $6,904,000 in 2023-24 and $10,032,000 in 2024-25. For comparison, DOR reports that credit usage for fiscal year 2022-23 through January, 2023, is $11.3 million.

Businesses certified by WEDC can earn credits for a portion of wages paid to employees, training costs for employees, personal property investments, real property investments, and wages paid to employees performing corporate headquarters functions in Wisconsin.

14. BUSINESS DEVELOPMENT JOB TRAINING CREDIT

Governor: Modify the business development job training tax credit as follows. Under current law, a business may be certified to receive tax credits for up to 50% of eligible training costs, as determined by WEDC, to undertake activities to enhance an employee's general knowledge, employability, and flexibility in the workplace; develop skills unique to the person's workplace or equipment; or develop skills that will increase the quality of the business's product. The bill would delete the eligible activities for what the job training would have to include and replace them with the following activities: (a) upgrading or improving the job-related skills of an eligible employee; (b) training an eligible employee on the use of job-related new technologies; or (c) providing job-related training to an eligible employee whose employment with the person represents the employee's first full-time job.

The Administration indicates that the changes are intended to more closely align the business development tax credit program with the enterprise zone tax credit program. The Administration did not estimate a fiscal effect associated with this provision.

[Bill Sections: 2571 and 2572]

15. BUSINESS DEVELOPMENT CORPORATE HEADQUARTERS CREDIT

Governor: Remove the requirement that, for employee wages eligible to earn the corporate headquarters credit under the business development tax credit, the job duties associated with an eligible employee's position must involve the performance of corporate headquarters functions for taxable years beginning after December 31, 2022.

Under current law, for the corporate headquarters credit, a business can earn an amount, as determined by WEDC, equal to a percentage of the amount of wages that the business paid to an employee in an eligible position in the taxable year. Eligible positions must be created or retained in connection with the business's location or retention of its corporate headquarters in Wisconsin, and the job duties associated with the eligible position must involve the performance of corporate headquarters functions. WEDC's policies and procedures set the percentage to up to 10% of the annual wages of eligible positions created or retained in connection with a corporate headquarters location/retention in Wisconsin, but credits cannot be earned for wages in excess of $100,000 per year. The bill would expand eligible positions to all employees at the headquarters, regardless of their duties. The Administration did not estimate a fiscal effect associated with this provision.

[Bill Sections: 1403, 1404, 1471, 1472, 1509, and 1510]

16. BUSINESS DEVELOPMENT CREDIT FOR RENEWABLE ENERGY

Governor: Create a new tax credit under the refundable business development tax credit program, administered by WEDC, for taxable years beginning after December 31, 2023, equal to up to 25% of the claimant's energy efficiency or renewable energy project expenditures on real or personal property located in Wisconsin. Specify that, when making an award, WEDC would have

to ensure that the percentage of expenditures taken into account positively correlates to the scale of the project. According to the Administration, WEDC would award larger credit percentages for larger projects, up to a maximum of 25%. The credit would first apply to awards made on and after January 1, 2024. The Administration did not estimate a fiscal effect associated with this provision.

[Bill Sections: 1405, 1473, 1511, 2573, and 9349(1)]

17. WAGE THRESHOLDS FOR ENTERPRISE ZONE AND BUSINESS DEVELOPMENT CREDITS

Governor: Modify the wage threshold for the enterprise zone and business development tax credit programs, as described below.

Under current law, WEDC is responsible for awarding tax credits, certifying taxpayers, allocating and verifying tax credits, and performing other general administrative functions related to both the business development and enterprise zone tax credit programs. Typically, WEDC will certify a business as eligible via a contract that specifies a maximum amount of tax benefits that may be earned by the business by successfully completing specified goals.

Enterprise Zone Credit - Current Law. The refundable enterprise zone tax credit for job creation can be claimed for up to a percentage of the increase in wages resulting from creating full-time jobs in the zone. Specifically, the credit is an amount equal to a percentage (up to 7%, as determined by WEDC) multiplied by: (a) the number of the claimant's new full-time employees; and (b) the creditable wage amount. New full-time employees are equal to the number of employees in the zone in the taxable year minus the number of employees in the base year (or, if the difference is smaller, the new employees in the state minus base year employees in the state). The creditable wage amount is the average zone payroll minus the average eligible wage amount. The average zone payroll is the total wages of full-time employees employed in the zone in the taxable year, excluding wages in excess of $100,000, divided by the number of full-time employees employed in the zone in the taxable year. The average eligible wage amount is currently $22,620 for Tier I and $30,000 for Tier II counties and municipalities. Counties and municipalities are designated as Tier I or Tier II by WEDC, based on certain economic indicators.

A similar refundable credit for job retention can be claimed for an amount equal to the percentage, up to 7% as determined by WEDC, of the claimant's zone payroll (excluding wage amounts that are over $100,000) paid in the tax year to full-time employees who were employed in the enterprise zone and whose annual wages were greater than the eligible wage amount (described above).

Business Development Credit - Current Law. The refundable business development tax credit can be claimed for eligible expenses for increased employment, retaining employees, employee training, capital investment, and corporate headquarters location or retention in Wisconsin. Certified businesses can earn a refundable job creation or job retention credit for up to 10% of the amount of wages paid to an eligible employee (full-time job) in a tax year. If the employee is employed in a full-time job at the claimant's business in an "economically distressed area," as determined by WEDC, an additional credit may be awarded for up to 5% of such wages.

WEDC uses the same definition for an "economically distressed area" as a "Tier I" county or municipality as under the enterprise zone tax credit program. For purposes of the credit, a full-time job means a regular, non-seasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay equal to at least 150% of the federal minimum wage ($22,620) and benefits that are not required by state or federal law. Credits cannot be earned for wages over $100,000 per year.

Governor's Recommendation. The bill would modify the enterprise zone and business development tax credit programs for contracts executed after December 31, 2023, as follows.

a. For enterprise zone job creation and job retention credits, the bill would increase the wage thresholds from $22,620 for Tier I and $30,000 for Tier II counties and municipalities to $32,000 and $42,390, respectively. Similarly, a "full-time employee" would be defined as an individual employed in a regular, nonseasonal full-time position for which the individual receives annual pay that is more than $32,000 in a Tier I county or municipality or more than $42,390 in a Tier II county or municipality and receives benefits that are not required by federal or state law.

b. For the business development job creation and job retention credits, for contracts entered into after December 31, 2023, a "full-time job" would be defined to remove the 2,080 hour requirement and, instead, would mean a regular, nonseasonal full-time position for which an individual receives pay that is equal to at least $32,000 and receives benefits that are not required by federal or state law. A "full-time job" would not include initial training before an employment position begins.

c. The bill would increase the maximum wage threshold such that zone payroll under the job creation and job retention credits for the enterprise zone tax credit programs would include wages paid to any full-time employee up to $141,300 (rather than $100,000) as creditable wages. For the business development job creation and job retention tax credits, the maximum wages taken into account would be limited by statute to $141,300 per eligible employee per year.

d. For both tax credits, beginning on January 1, 2025, the wage thresholds and limits described above would be adjusted for inflation each year based on the change for the month of August in the prior year compared to the month of August in the year preceding the prior year of the U.S. CPI for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor. Further, the bill would specify that each amount so adjusted must be rounded to the nearest multiple of $10 if the revised amount is not a multiple of $10, or, if the revised amount is a multiple of $5, increased to the next higher multiple of $10. [A technical modification would be needed to accomplish the Governor's intent to adjust the threshold described under "b" for inflation.]

The Administration did not estimate a fiscal effect associated with the changes to the enterprise zone and business development tax credit programs described above.

[Bill Sections: 1388 thru 1402, 1456 thru 1470, 1497 thru 1508, 2567 thru 2570, 2574, and 2578]

18. JOBS CREDIT REESTIMATE

GPR	- $1,290,000

Governor: Reduce funding by $582,000 in 2023-24 and $708,000 in 2024-25 for the sum sufficient appropriation for jobs tax credits to reestimate claims during the 2023-25 biennium. The reestimate reflects projections for credit claims for economic development projects for which WEDC has awarded tax credits. With the adjustments, estimated total funding would decrease from base funding of $1,000,000 to $418,000 in 2023-24 and $292,000 in 2024-25.

Pursuant to 2015 Act 55, the refundable jobs tax credit was consolidated with the nonrefundable economic development tax credit into the refundable business development tax credit beginning in 2016. The jobs tax credit was sunset after 2015. However, if WEDC allocated tax benefits in a contract to claimants prior to December 31, 2015, or if WEDC had entered into a letter of intent to enter into a contract before that date, claimants may compute and claim the credit for as long as the contract specifies. WEDC has entered into contracts through tax year 2023 for businesses to earn, compute, and claim the credit.

19. OIL PIPELINE TERMINAL TAX DISTRIBUTION REESTIMATE

GPR	$5,920,200

Governor: Increase estimated payments by $3,054,100 in 2023-24 and $2,866,100 in 2024-25. With these increases, oil pipeline terminal tax payments would equal $9,054,100 in 2023-24 and $8,866,100 in 2024-25, relative to base level funding of $6,000,000. The oil pipeline terminal tax distribution provides payments to municipalities where oil pipeline terminal facilities are located. At present, the state has two oil pipeline terminal facilities, which are located in the City of Superior and the Village of Kronenwetter. The payment equals a proportionate share of the pipeline company's state tax payment based on the terminal facility's cost as a percentage of the gross book value of the pipeline company in Wisconsin.

20. CIGARETTE AND TOBACCO PRODUCTS TAX REFUNDS REESTIMATE

GPR	- $2,826,000

Governor: Decrease funding for cigarette and tobacco products tax refunds by $1,160,000 in 2023-24 and $1,666,000 in 2024-25 to reflect lower estimates of the sum sufficient appropriation amounts required to reimburse Native American tribes under present law. With these adjustments, estimated total funding in the cigarette and tobacco products tax refunds appropriation would decrease from base funding of $29,700,000 to $28,540,000 in 2023-24 and $28,034,000 in 2024-25.

Under current law, for sales that occur on reservations or trust lands, the tribes receive a refund of 100% of the excise tax on cigarettes sold to eligible tribal members and 70% of the tax on sales to non-Native Americans under an agreement entered into between DOR and each tribe. For tobacco products or vapor products sold on reservations or trust lands, the tribes receive a refund of 100% of the tax on products sold to eligible tribal members and 50% of the tax on products sold to non-Native Americans under these agreements. Eligible tribal members must reside on the reservation or trust land of the tribe where the sale took place and be an enrolled member of the tribe.

21. EITM ZONE CREDIT REESTIMATE

GPR	- $2,484,400

Governor: Reduce funding by $245,700 in 2023-24 and $2,238,700 in 2024-25 for the sum sufficient appropriation for refundable electronics and information technology manufacturing (EITM) zone tax credits (Foxconn). Total funding would decrease from base funding of $8,570,700 to $8,325,000 in 2023-24 and $6,332,000 in 2024-25.

The EITM zone tax credit program provides a refundable payroll tax credit based upon 17% of the EITM zone payroll of full-time employees employed by the claimant. In addition, if WEDC determines that a certified business makes a significant capital expenditure in the EITM zone, it can certify the business to receive additional tax benefits in an amount to be determined by WEDC, but not exceeding 15% of the business's capital expenditures in the EITM zone in the taxable year. The estimate reflects the Administration's review of the jobs, payroll, and capital expenditure targets established under the amended contract dated April 20, 2021, that WEDC entered into with certain Wisconsin corporations that are affiliated with Foxconn.

22. MARIJUANA TAX REFUNDS

GPR	$2,200,000

Governor: Allow DOR to enter into an agreement with federally-recognized American Indian tribes in this state: (a) for the administration and enforcement of marijuana excise taxes and regulation; and (b) to provide refunds of the excise taxes imposed on marijuana sold on tribal land by, or to, enrolled members of the tribe residing on the tribal land. Create a new sum sufficient GPR appropriation to pay refunds to eligible tribes for marijuana excise taxes collected, including interest and penalties, and provide $2,200,000 in 2024-25 as an estimate of the amounts that would be refunded to the tribes.

The legalization of the sale and taxation of marijuana would be authorized under separate provisions of the bill. [For additional information, see "Marijuana-Related Provisions."]

[Bill Sections: 537 and 2294]

23. CLAIM OF RIGHT CREDIT REESTIMATE

GPR	- $56,000

Governor: Decrease funding for the claim of right (repayment) credit by $28,000 in 2023-24 and 2024-25. Compared to base funding of $150,000, total funding for the credit is estimated at $122,000 in 2023-24 and 2024-25.