



Department of Workforce Development

Unemployment Insurance Advisory Council

Council Members: Please bring your calendars to schedule future meetings.
<https://dwd.wisconsin.gov/uibola/uiac/>

MEETING

Date: November 21, 2019
Time: 10:00 a.m. – 4:00 p.m.
Place: Department of Workforce Development
201 E. Washington Avenue
Madison, Wisconsin
GEF-1, Room F305

AGENDA ITEMS AND TENTATIVE SCHEDULE:

1. Call to Order and Introductions
2. Approval of Minutes of the November 7, 2019 Council Meeting
3. Department Update
4. Brief Report on the Unemployment Insurance Reserve Fund
5. Review and Discussion of LRB Draft of Agreed Upon Bill
6. Agreed Bill Timeline/Future Meeting Dates
7. Adjourn

Notice:

- ❖ The Council may not address all agenda items or follow the agenda order.
- ❖ The Council may take up action items at a time other than that listed.
- ❖ The Council may discuss other items, including those on any attached lists.

- ❖ The Council members may attend the meeting by telephone.
- ❖ The employee or employer members of the Council may convene in closed session at any time during the meeting to deliberate any matter for potential action or items posted in this agenda, under sec. 19.85(1)(ee), Stats. The employee or employer members of the Council may thereafter reconvene again in open session after completion of the closed session.
- ❖ This location is accessible to persons with disabilities. If you have a disability and need assistance (such as an interpreter or information in an alternate format), please contact Robin Gallagher, Unemployment Insurance Division, at 608-267-1405 or dial 7-1-1 for Wisconsin Relay Service.
- ❖ Today's meeting materials will be available online at the time of the meeting at:
<https://dwd.wisconsin.gov/uibola/uiac/meetings.htm>

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

Offices of the State of Wisconsin Department of Workforce Development
201 E. Washington Avenue, GEF 1, Room H306
Madison, WI

November 7, 2019

The meeting was preceded by public notice as required under Wis. Stat. § 19.84.

Members Present: Janell Knutson (Chair), Scott Manley, Susan Quam, John Mielke, Dennis Delie, Shane Griesbach, Terry Hayden and Di Ann Fechter.

Department Staff Present: Mark Reihl, Andrew Rubsam, Jennifer Wakerhauser (Deputy Legal Counsel), Patrick Lonergan, Tom McHugh, Janet Sausen, Robert Usarek, Emily Savard, Wendi Zitske and Tyler Tichenor.

Members of the Public Present: Tyler Longsine (office of Representative James Edming), Anita Krasno (General Counsel, Labor & Industry Review Commission), Chris Reader (Wisconsin Manufacturers & Commerce), Victor Forberger (Attorney, Wisconsin UI Clinic), and Mariah Hennen (Legal Action of Wisconsin).

1. Call to Order and Introduction

Ms. Knutson called the Unemployment Insurance Advisory Council meeting to order at 11:32 a.m. under Wisconsin's Open Meetings law. Council members introduced themselves and Ms. Knutson recognized DWD Deputy Legal Counsel Jennifer Wakerhauser; Tyler Longsine of Rep. James Edming's Office, and Anita Krasno, General Counsel with the Labor & Industry Review Commission.

2. Approval of Minutes of the October 22, 2019 Meeting

Motion by Mr. Mielke, second by Mr. Hayden, to approve the minutes of the October 22, 2019 meeting without correction. The motion carried unanimously.

3. Department Update

Ms. Knutson reported the current Trust Fund balance is approximately \$2 billion, which results in Wisconsin having an Average High Cost Multiple (AHCM) of 1.0.

4. Proposals for Agreed Bill and Research Requests

There were no pending research requests and no questions from Council members on the pending proposals.

5. Agreed Bill Timeline

Ms. Knutson reviewed the agreed bill timeline with the Council. If the Council is able to reach an agreement on the pending proposals during today's meeting, it is anticipated that Legislative Reference Bureau (LRB) will have a draft of the statutory language for the agreed-upon proposals ready for the Council's review before the November 21, 2019 meeting. If the Council needs to meet in December to reach an agreement on the LRB draft language, it is possible that meeting could be held via teleconference.

6. Future Meeting Dates

The next regularly-scheduled Council meeting is November 21, 2019. Ms. Knutson noted that future meeting dates would depend on the action taken at today's meeting.

Caucus

Motion by Mr. Hayden, second by Mr. Manley to convene in closed caucus under Wis. Stat. § 19.85(1)(ee) to deliberate pending proposals and agenda items. The motion carried unanimously and the Council convened in closed caucus at 11:40 a.m.

The Council reconvened the public meeting at 2:20 p.m. Mr. Hayden reported that the Council had reached a decision to proceed with the department proposals that were previously agreed to and withdraw the Labor and Management proposals. The department proposals agreed to by the Council include:

- D19-01 – Reimbursable Employer Debt Assessment Charging;
- D19-03 – Fiscal Agent Election of Employer Status;
- D19-07 – Departmental Error;
- D19-08 – Appropriation Revisions and Technical Corrections;
- D19-09 – Creation of Administrative Fund;
- D19-10 – Update Administrative Rules to Convert SIC to NAICS (scope approved);
- D19-19 – Department Reports to Legislature;
- D19-20 – Effect of a Criminal Conviction;
- D19-21 – Eligibility for Certain Employees; and
- D19-22 – Prohibit DOR Collection of UI Debts

The Council agreed to these proposals with the caveat that proposals with appropriation provisions (D19-08, D19-09, D19-21) be contained in a separate bill.

Mr. Manley stated that he appreciated the work done by both sides of the Council; and, while he wished they had made more progress on their own proposals, there were respectful conversations and exchanges by Labor and Management members throughout the deliberations. Each side made their proposals in good faith and with sincerity which encourages both sides to remain committed to the agreed bill process.

Mr. Hayden echoed the statements made by Mr. Manley and emphasized that the meaningful and respectful discussions that occurred during the deliberations underscore the value of the agreed bill process. Council members thanked each other for the hard work and respect that was displayed from both Labor and Management during the negotiations.

7. Adjourn

Motion by Mr. Manley, second by Mr. Hayden to adjourn. The motion carried unanimously, and the Council adjourned at 2:30 p.m.

UI Reserve Fund Highlights November 21, 2019

The October 31, 2019 Trust Fund ending balance was \$2,003,528,344, an increase of \$233,428,597, when compared to \$1,770,099,747 at the same time last year.

FINANCIAL STATEMENTS

For the Month Ended October 31, 2019



Division of Unemployment Insurance

Bureau of Tax and Accounting

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
BALANCE SHEET
FOR THE MONTH ENDED October 31, 2019

	<u>CURRENT YEAR</u>	<u>PRIOR YEAR</u>
<u>ASSETS</u>		
CASH:		
U.I. CONTRIBUTION ACCOUNT	3,199,132.25	3,784,311.96
U.I. BENEFIT ACCOUNTS	(4,387.59)	(15,324.52)
U.I. TRUST FUND ACCOUNTS (1) (2)	<u>2,011,834,153.66</u>	<u>1,776,752,302.15</u>
TOTAL CASH	2,015,028,898.32	1,780,521,289.59
ACCOUNTS RECEIVABLE:		
BENEFIT OVERPAYMENT RECEIVABLES	70,571,884.67	77,344,052.60
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (3)	<u>(33,149,749.82)</u>	<u>(35,850,862.25)</u>
NET BENEFIT OVERPAYMENT RECEIVABLES	37,422,134.85	41,493,190.35
TAXABLE EMPLOYER RFB & SOLVENCY RECEIV (4) (5)	25,356,970.04	27,538,286.04
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (3)	<u>(15,638,702.04)</u>	<u>(18,891,237.49)</u>
NET TAXABLE EMPLOYER RFB & SOLVENCY RECEIV	9,718,268.00	8,647,048.55
OTHER EMPLOYER RECEIVABLES	21,510,150.11	21,923,715.94
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS	<u>(7,783,632.28)</u>	<u>(8,769,047.56)</u>
NET OTHER EMPLOYER RECEIVABLES	13,726,517.83	13,154,668.38
TOTAL ACCOUNTS RECEIVABLE	<u>60,866,920.68</u>	<u>63,294,907.28</u>
TOTAL ASSETS	<u><u>2,075,895,819.00</u></u>	<u><u>1,843,816,196.87</u></u>
<u>LIABILITIES AND EQUITY</u>		
LIABILITIES:		
CONTINGENT LIABILITIES (6)	26,997,309.87	28,625,543.52
OTHER LIABILITIES	12,257,453.51	11,224,568.52
FEDERAL BENEFIT PROGRAMS	264,678.99	263,442.18
CHILD SUPPORT HOLDING ACCOUNT	8,121.00	8,058.00
FEDERAL WITHHOLDING TAXES DUE	55,877.00	38,287.00
STATE WITHHOLDING TAXES DUE	457,164.00	463,224.20
DUE TO OTHER GOVERNMENTS (7)	<u>803,292.77</u>	<u>815,444.90</u>
TOTAL LIABILITIES	40,843,897.14	41,438,568.32
EQUITY:		
RESERVE FUND BALANCE	2,509,697,129.59	2,389,260,057.61
BALANCING ACCOUNT	<u>(474,645,207.73)</u>	<u>(586,882,429.06)</u>
TOTAL EQUITY	<u>2,035,051,921.86</u>	<u>1,802,377,628.55</u>
TOTAL LIABILITIES AND EQUITY	<u><u>2,075,895,819.00</u></u>	<u><u>1,843,816,196.87</u></u>

1. \$1,891,913 of this balance is for administration purposes and is not available to pay benefits.

2. \$2,141,227 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

3. The allowance for uncollectible benefit overpayments is 50.3%. The allowance for uncollectible delinquent employer taxes is 42.5%. This is based on the historical collectibility of our receivables. This method of recognizing receivable balances is in accordance with generally accepted accounting principles.

4. The remaining tax due at the end of the current month for employers utilizing the 1st quarter deferral plan is \$189,047. Deferrals for the prior year were \$234,341.

5. \$6,932,131, or 27.3%, of this balance is estimated.

6. \$13,194,209 of this balance is net benefit overpayments which, when collected, will be credited to a reimbursable or federal program. \$13,803,101 of this balance is net interest, penalties, SAFI, and other fees assessed to employers and penalties and other fees assessed to claimants which, when collected, will be credited to the state fund.

7. This balance includes SAFI Payable of \$1,444. The 10/31/2019 balance of the Unemployment Interest Payment Fund (DWD Fund 214) is \$8,519. Total Life-to-date transfers from DWD Fund 214 to the Unemployment Program Integrity Fund (DWD Fund 298) were \$9,501,460.

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
RESERVE FUND ANALYSIS
FOR THE MONTH ENDED October 31, 2019

	<u>CURRENT ACTIVITY</u>	<u>YTD ACTIVITY</u>	<u>PRIOR YTD</u>
BALANCE AT BEGINNING OF MONTH/YEAR:			
U.I. TAXABLE ACCOUNTS	2,877,379,624.82	2,794,896,813.36	2,635,459,959.45
BALANCING ACCOUNT	<u>(895,025,041.07)</u>	<u>(1,030,187,761.19)</u>	<u>(1,125,485,495.65)</u>
TOTAL BALANCE	1,982,354,583.75	1,764,709,052.17	1,509,974,463.80
<u>INCREASES:</u>			
TAX RECEIPTS/RFB PAID	58,008,912.01	397,579,211.08	431,749,022.36
ACCRUED REVENUES	(6,371,716.10)	(3,714,755.16)	(4,426,257.15)
SOLVENCY PAID	18,364,143.69	150,154,601.31	155,106,295.58
FORFEITURES	(610.00)	29,977.00	215,332.16
BENEFIT CONCEALMENT INCOME	58,011.04	594,851.20	685,358.67
INTEREST EARNED ON TRUST FUND	0.00	32,806,064.13	26,761,133.34
FUTA TAX CREDITS	802.04	18,137.95	35,358.14
OTHER CHANGES	<u>30,327.88</u>	<u>340,412.68</u>	<u>379,857.29</u>
TOTAL INCREASES	70,089,870.56	577,808,500.19	610,506,100.39
<u>DECREASES:</u>			
TAXABLE EMPLOYER DISBURSEMENTS	13,860,934.88	259,242,289.59	268,917,987.96
QUIT NONCHARGE BENEFITS	2,192,040.91	37,651,009.96	37,685,886.43
OTHER DECREASES	73,312.32	(2,306,644.96)	(696,337.19)
OTHER NONCHARGE BENEFITS	<u>1,266,244.34</u>	<u>12,878,975.91</u>	<u>12,195,398.44</u>
TOTAL DECREASES	17,392,532.45	307,465,630.50	318,102,935.64
BALANCE AT END OF MONTH/YEAR:			
RESERVE FUND BALANCE	2,509,697,129.59	2,509,697,129.59	2,389,260,057.61
BALANCING ACCOUNT	<u>(474,645,207.73)</u>	<u>(474,645,207.73)</u>	<u>(586,882,429.06)</u>
TOTAL BALANCE (8) (9) (10)	<u><u>2,035,051,921.86</u></u>	<u><u>2,035,051,921.86</u></u>	<u><u>1,802,377,628.55</u></u>

8. This balance differs from the cash balance related to taxable employers of \$2,003,528,344 because of non-cash accrual items.

9. \$1,891,913 of this balance is set up in the Trust Fund in two subaccounts to be used for administration purposes and is not available to pay benefits.

10. \$2,141,227 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

**DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
RECEIPTS AND DISBURSEMENTS STATEMENT
FOR THE MONTH ENDED 10/31/19**

RECEIPTS	-CURRENT ACTIVITY--	--YEAR TO DATE---	PRIOR YEAR TO DATE
TAX RECEIPTS/RFB	\$58,008,912.01	\$397,579,211.08	\$431,749,022.36
SOLVENCY	18,364,143.69	150,154,601.31	155,106,295.58
ADMINISTRATIVE FEE	158.44	866.81	1,109.24
ADMINISTRATIVE FEE - PROGRAM INTEGRITY	398,435.92	3,326,180.33	3,267,318.35
UNUSED CREDITS	(455,864.54)	3,599,351.01	5,595,300.21
GOVERNMENTAL UNITS	687,099.40	8,781,016.49	9,244,846.23
NONPROFITS	1,038,097.64	8,965,627.78	9,817,344.23
INTERSTATE CLAIMS (CWC)	28,496.15	3,676,616.40	3,416,611.60
ERROR SUSPENSE	37,262.21	36,047.81	18,825.37
FEDERAL PROGRAMS RECEIPTS	3,023.97	(255,048.41)	220,460.99
OVERPAYMENT COLLECTIONS	1,333,611.96	15,266,138.91	16,961,149.16
FORFEITURES	(610.00)	29,977.00	215,332.16
BENEFIT CONCEALMENT INCOME	58,011.04	594,851.20	685,358.67
EMPLOYER REFUNDS	(310,024.30)	(4,513,714.43)	(5,396,740.74)
COURT COSTS	48,175.64	407,301.48	451,832.99
INTEREST & PENALTY	270,939.48	3,057,172.25	3,197,408.61
CARD PAYMENT SERVICE FEE	2,139.44	5,502.56	0.00
BENEFIT CONCEALMENT PENALTY-PROGRAM INTEGRITY	78,027.82	884,850.92	940,804.34
MISCLASSIFIED EMPLOYEE PENALTY-PROG INTEGRITY	683.17	26,721.81	1,930.41
SPECIAL ASSESSMENT FOR INTEREST	1,443.59	18,109.49	14,949.00
INTEREST EARNED ON U.I. TRUST FUND BALANCE	0.00	32,806,064.13	26,761,133.34
MISCELLANEOUS	4,742.39	65,708.50	58,795.00
TOTAL RECEIPTS	\$79,596,905.12	\$624,513,154.43	\$662,329,087.10

DISBURSEMENTS			
CHARGES TO TAXABLE EMPLOYERS	\$15,517,979.36	\$272,792,355.43	\$283,042,868.07
NONPROFIT CLAIMANTS	698,272.22	8,080,883.79	9,173,117.80
GOVERNMENTAL CLAIMANTS	538,215.98	7,705,049.08	8,305,606.77
INTERSTATE CLAIMS (CWC)	175,205.00	3,141,874.65	3,156,851.83
QUITS	2,192,040.91	37,651,009.96	37,685,886.43
OTHER NON-CHARGE BENEFITS	1,337,774.82	13,285,521.26	12,493,567.51
CLOSED EMPLOYERS	1,054.11	(11,294.73)	4,383.93
FEDERAL PROGRAMS			
FEDERAL EMPLOYEES (UCFE)	69,019.48	1,006,321.82	1,153,828.62
EX-MILITARY (UCX)	29,260.38	337,869.56	434,467.42
TRADE ALLOWANCE (TRA/TRA-NAFTA)	91,725.64	996,157.82	2,139,137.86
DISASTER UNEMPLOYMENT (DUA)	0.00	19,310.00	0.00
2003 TEMPORARY EMERGENCY UI (TEUC)	(1,229.87)	(18,783.99)	(14,219.84)
FEDERAL ADD'L COMPENSATION \$25 ADD-ON (FAC)	(22,790.51)	(238,249.75)	(349,953.10)
FEDERAL EMERGENCY UI (EUC)	(229,129.33)	(2,237,409.38)	(2,828,618.98)
FEDERAL EXTENDED BENEFITS (EB)	(15,182.55)	(166,561.69)	(233,117.13)
FEDERAL EMPLOYEES EXTENDED BEN (UCFE EB)	0.00	(1,331.67)	(2,587.73)
FEDERAL EX-MILITARY EXTENDED BEN (UCX EB)	(245.03)	(7,657.20)	(4,469.75)
INTERSTATE CLAIMS EXTENDED BENEFITS (CWC EB)	(108.11)	(1,271.77)	(3,295.45)
INTEREST & PENALTY	245,724.98	3,034,743.29	3,194,602.10
CARD PAYMENT SERVICE FEE TRANSFER	929.68	3,363.12	0.00
PROGRAM INTEGRITY	67,467.19	3,833,471.78	3,802,769.12
SPECIAL ASSESSMENT FOR INTEREST	8,506.98	19,946.95	22,351.66
COURT COSTS	36,987.83	396,112.14	439,172.84
ADMINISTRATIVE FEE TRANSFER	84.72	803.48	1,012.82
FEDERAL WITHHOLDING	93,941.00	120,719.00	(11,756.00)
STATE WITHHOLDING	1,125,228.65	1,130,323.80	1,102,275.03
STC IMPLEMENT/IMPROVE & PROMOTE/ENROLL EXP	0.00	114,151.84	8,871.23
FEDERAL LOAN REPAYMENTS	(802.04)	(18,137.95)	(35,358.14)
TOTAL DISBURSEMENTS	\$21,959,931.49	\$350,969,290.64	\$362,677,394.92

NET INCREASE(DECREASE) 57,636,973.63 273,543,863.79 299,651,692.18

BALANCE AT BEGINNING OF MONTH/YEAR \$1,957,391,924.69 \$1,741,485,034.53 \$1,480,869,597.41

BALANCE AT END OF MONTH/YEAR \$2,015,028,898.32 \$2,015,028,898.32 \$1,780,521,289.59

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
CASH ANALYSIS
FOR THE MONTH ENDED October 31, 2019

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BEGINNING U.I. CASH BALANCE	\$1,944,765,892.95	\$1,730,835,304.79	\$1,471,761,579.73
INCREASES:			
TAX RECEIPTS/RFB PAID	58,008,912.01	397,579,211.08	431,749,022.36
U.I. PAYMENTS CREDITED TO SURPLUS	18,145,269.59	152,995,912.63	159,356,924.29
INTEREST EARNED ON TRUST FUND	0.00	32,806,064.13	26,761,133.34
FUTA TAX CREDITS	<u>802.04</u>	<u>18,137.95</u>	<u>35,358.14</u>
TOTAL INCREASE IN CASH	<u>76,154,983.64</u>	<u>583,399,325.79</u>	<u>617,902,438.13</u>
TOTAL CASH AVAILABLE	<u>2,020,920,876.59</u>	<u>2,314,234,630.58</u>	<u>2,089,664,017.86</u>
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	13,860,934.88	259,242,289.59	268,917,987.96
BENEFITS CHARGED TO SURPLUS	<u>3,531,597.57</u>	<u>51,349,845.01</u>	<u>50,637,411.89</u>
TOTAL BENEFITS PAID DURING PERIOD	<u>17,392,532.45</u>	<u>310,592,134.60</u>	<u>319,555,399.85</u>
SHORT-TIME COMPENSATION EXPENDITURES	<u>0.00</u>	<u>114,151.84</u>	<u>8,871.23</u>
ENDING U.I. CASH BALANCE (11) (12) (13)	<u><u>2,003,528,344.14</u></u>	<u><u>2,003,528,344.14</u></u>	<u><u>1,770,099,746.78</u></u>

11. \$1,607,328 of this balance was set up in 2009 in the Trust Fund as a subaccount per the ARRA UI Modernization Provisions and is not available to pay benefits.

12. \$284,585 of this balance was set up in 2015 in the Trust Fund as a Short-Time Compensation (STC) subaccount to be used for Implementation and Improvement of the STC program and is not available to pay benefits.

13. \$2,141,227 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
BALANCING ACCT SUMMARY
FOR THE MONTH ENDED October 31, 2019

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BALANCE AT THE BEGINNING OF THE MONTH/YEAR	(\$483,277,981.82)	(\$617,016,324.88)	(\$715,103,113.34)
INCREASES:			
U.I. PAYMENTS CREDITED TO SURPLUS:			
SOLVENCY PAID	18,364,143.69	150,154,601.31	155,106,295.58
FORFEITURES	(610.00)	29,977.00	215,332.16
OTHER INCREASES	<u>(218,264.10)</u>	<u>2,811,334.32</u>	<u>4,035,296.55</u>
U.I. PAYMENTS CREDITED TO SURPLUS SUBTOTAL	18,145,269.59	152,995,912.63	159,356,924.29
TRANSFERS BETWEEN SURPLUS ACCTS (14)	(37,505,277.69)	(23,508,578.43)	(39,564,330.14)
INTEREST EARNED ON TRUST FUND	0.00	32,806,064.13	26,761,133.34
FUTA TAX CREDITS	<u>802.04</u>	<u>18,137.95</u>	<u>35,358.14</u>
TOTAL INCREASES	(19,359,206.06)	162,311,536.28	146,589,085.63
DECREASES:			
BENEFITS CHARGED TO SURPLUS:			
QUITS	2,192,040.91	37,651,009.96	37,685,886.43
OTHER NON-CHARGE BENEFITS	1,339,556.66	13,698,832.05	12,951,525.46
MISCELLANEOUS EXPENSE	<u>0.00</u>	<u>3.00</u>	<u>0.00</u>
BENEFITS CHARGED TO SURPLUS SUBTOTAL	3,531,597.57	51,349,845.01	50,637,411.89
SHORT-TIME COMPENSATION EXPENDITURES	<u>0.00</u>	<u>114,151.84</u>	<u>8,871.23</u>
BALANCE AT THE END OF THE MONTH/YEAR	<u>(506,168,785.45)</u>	<u>(506,168,785.45)</u>	<u>(619,160,310.83)</u>

14. The 10% writeoff for 2019 was \$37.5 million and is included in this balance. The 10% writeoff shifts employer benefit charges to the balancing account. The 10% writeoff has no effect on receivable balances.

Prepared by: Bureau of Legal Affairs

Date: November 18, 2019

Re: LRB-4903/P1 – statutory language draft for proposals D19-08, D19-09, and D19-21

The Legislative Reference Bureau drafted statutory language for proposals 8, 9, and 21. As discussed at prior UIAC meetings, because the Council approved proposals 8 and 9, the resulting statutory language for certain appropriations provisions differs slightly from what was previously presented to the Council at the March and July 2019 meetings.

Proposal D19-21, benefits for certain employees, is included in this LRB draft because part of the proposal requires a change to an appropriations statute. The language for this proposal is in sections 3 (line 17), 32-35, 39, 114 of the LRB-4903/P1 draft.

The language for proposal D19-09, creation of the administration fund, is included in sections 2, 3, 4, 105 of LRB-4903/P1.

Proposal D19-08, appropriations revisions and technical corrections, is included in the other sections of the LRB draft. A brief summary of those sections follows.

Section	Change	Reason
Various	Amendments to references to federal laws in ch. 108 to the specific federal statute. Example: replace “section 903(d) of the federal Social Security Act, as amended” with “42 USC 1103(d).”	For clarification and ease of checking cross-references. Corrects some outdated and incorrect references to federal laws.
Various	Repeal “administrative account.”	The “administrative account” replaced the unemployment administration fund. State moneys are supposed to be handled by appropriations and funds, not accounts. This removes the references to the account in favor of citation to the specific appropriation or fund for the moneys.
Various	Repeals references to the “administrative account” and replaces those references with the specific appropriation in s. 20.445(1).	This change ensures that the unemployment appropriations are drafted consistent with current State budget practices and removes ambiguity regarding the appropriate appropriation applicable to certain moneys.
Various	“fund’s balancing account”	Update references to the “fund’s balancing account.”
1 & 40	Create an appropriation for LIRC to receive transcript and copying fees.	Originally requested by LIRC in the 2015 State Budget process. Provides an appropriation for receiving fees currently collected by LIRC.
2	Clarifies location for deposit of assessment for program administration.	Department may assess employers an assessment to ensure funding for the UI program. This clarifies which appropriation would handle the funds.
3	Amends the “employer interest and penalty” appropriation in s. 20.445(1)(gd) (now (wd)) to repeal references to repealed laws and to update cross-references.	For clarification of statutes.
3	Amendment to the appropriation that primarily receives employer interest and penalties to receive additional sources of funds.	Consolidates appropriations and clarifies language.
4	Repeals the appropriation in s. 20.445(1)(gg).	Repeals an appropriation that is no longer used, related to technology assessments.
5	Repeal reference to 1997 WI Act 39 from s. 20.445(1)(gh).	Delete a reference to a temporary provision that is no longer in effect.

6	Repeals the appropriation in s. 20.445(1)(gm).	Repeals an appropriation related to the employer handbook because those funds are redirected to the (gd), now (wd) appropriation (administration fund).
11, 13, 65, 95-99	Restructure the statutes regarding the unemployment interest payment fund, which relates to the special assessments for interest.	To ensure that the statutes are properly organized based on current drafting conventions and to better organize these sections.
13 & 14	Updates cross-references for SWIB authority to manage the unemployment administration fund.	Necessary revision for cross-references due to creation of administration fund.
19	Amend definition of “employer’s account.”	Clarifies statute by incorporating cross-reference to s. 108.16(2)(a).
24	Repeal the exclusion from gross income for amounts received under qualified group legal services plans in s. 108.02(26)(c)9.	Corresponding federal exclusion in 26 USC § 120 has been repealed.
25	Repeal the exclusion from gross income for amounts received under the federal Medicare Catastrophic Coverage Act in 108.02(26)(c)14..	Corresponding federal Act has been repealed.
26	Move s. 108.04(7)(h) to s. 108.04(7)(u).	Moves statute related to charging benefits so that it appears after the quit exceptions.
35, 37, 47, 56, 57	Amend various statutes related to charging of benefits related to substantial fault.	Updates statutes regarding charging of benefits related to substantial fault to ensure proper charging.
41	Repeals “in this state” from s. 108.10.	Clarifies that the procedures for appeals of tax matters apply to all employing units, not just those in Wisconsin.
41, 53, 111, 112	Adds cross-reference to s. 108.095.	These changes should have been made when s. 108.095 was created.
45, 50, 52	Repeals and amends references regarding costs of printing certain materials.	Consolidates language regarding printing forms and handbooks. Replaces references to the “administrative account” with a specific appropriation for consistency.
48	Amend s. 108.14(a) to (d).	Modernize language related to federal conformity requirement.
51	Re-number s. 108.14(18).	Move the provision to be near the related statute.
66	Amend s. 108.16(6m).	Correct cross-references.
70-79	Amend and consolidate sections of 108.161.	For clarification.
103	Repeal s. 108.19(3).	Repeal outdated section.

104	Amends and moves statute regarding use of contributions for administrative purposes.	If federal law is changed to permit this purpose, the Department prefers the proposed language in Section 104. This statutory language has apparently not been updated since 1943.
107	Amend s. 108.22(1m).	To include amounts due by Indian Tribes. This reference should have been added when s. 108.22(1m) was created.
109	Amend s. 108.223(2)(b).	Improve style of statute.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4903/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 20.445 (1) (gg), 20.445 (1) (gm), 108.02 (1), 108.02 (26) (c) 9.,
2 108.02 (26) (c) 14., 108.14 (7) (c), 108.14 (23) (d) and 108.19 (3); **to renumber**
3 108.04 (7) (h); **to renumber and amend** 20.445 (1) (gc), 20.445 (1) (gd), 20.445
4 (1) (gh), 108.14 (12) (e), 108.14 (18), 108.19 (1), 108.19 (1m), 108.19 (1n), 108.19
5 (1p), 108.19 (1q), 108.19 (1s), 108.19 (2), 108.19 (2m) and 108.19 (4); **to**
6 **consolidate, renumber and amend** 108.14 (12) (a) to (d), 108.161 (1) and
7 (1m) and 108.161 (5) and (6); **to amend** 20.445 (1) (n), 20.445 (1) (nb), 20.445
8 (1) (nd), 20.445 (1) (ne), 20.445 (1) (u), 20.445 (1) (v), 25.17 (1) (xe), 25.17 (1) (xf),
9 103.05 (5) (d), 108.02 (2) (c), 108.02 (13) (c) 2. a., 108.02 (14), 108.02 (15) (j) 5.,
10 108.02 (15) (k) 5., 108.02 (17m), 108.02 (19), 108.04 (11) (f), 108.04 (12) (b),
11 108.04 (16) (d) 1., 108.04 (18) (a), 108.04 (18) (b), 108.05 (3) (a), 108.05 (3) (c)
12 (intro.), 108.07 (5) (intro.), 108.07 (5) (a), 108.07 (5) (c), 108.07 (6), 108.07 (7),
13 108.09 (5) (b), 108.10 (intro.), 108.13 (4) (a) 2., 108.14 (2m), 108.14 (3m), 108.14
14 (8n) (a), 108.14 (8n) (e), 108.14 (16), 108.14 (26), 108.141 (1) (h), 108.141 (3g) (a)
15 3. b., 108.141 (7) (a), 108.141 (7) (b), 108.145, 108.15 (3) (d), 108.151 (2) (d),

1 108.152 (1) (d), 108.155 (2) (a) and (d), 108.16 (5) (c), 108.16 (6) (k), 108.16 (6)
2 (m), 108.16 (6m) (a), 108.16 (6x), 108.16 (8) (f), 108.16 (9) (a), 108.161 (title),
3 108.161 (2), 108.161 (3), 108.161 (3e), 108.161 (4), 108.161 (7), 108.161 (8),
4 108.161 (9), 108.162 (7), 108.17 (2m), 108.17 (3), 108.17 (3m), 108.18 (3) (c),
5 108.18 (7) (a) 1., 108.18 (7) (h), 108.19 (1e) (a), 108.19 (1e) (d), 108.19 (1f) (a),
6 108.19 (1f) (c), 108.22 (1) (am), 108.22 (1m), 108.22 (8e), 108.223 (2) (b), 108.23,
7 108.24 (3) (a) 3. a. and 108.24 (3) (a) 4.; **to repeal and recreate** 108.19 (title)
8 and 108.20; and **to create** 20.427 (1) (g), 108.05 (3) (cm), 108.19 (1) (d), 108.19
9 (1e) (cm) and 108.19 (1m) (e) of the statutes; **relating to:** various changes to the
10 unemployment insurance law and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

BENEFITS

Benefits for certain employees

Under current law, a claimant for UI benefits is ineligible to receive any benefits for a week in which the claimant performs 32 or more hours of work. This bill requires DWD to disregard an employee's hours worked for an employer in a given week and wages payable to the employee for that week when determining the employee's benefit eligibility if certain conditions apply, including that the employer requires the employee to work during the week as a condition of continued employment with the employer and the employer is unable to pay wages because a government unit or the federal government fails to appropriate funds to the employer.

Also under current law, whenever UI benefits are chargeable based on federal employment, DWD is to charge those benefits to the federal government. This bill allows DWD to instead pay those benefits from interest and penalty moneys appropriated to DWD in the case where the federal government refuses to reimburse the benefits.

ADMINISTRATION AND FINANCE

Segregated fund

The bill creates a segregated fund to receive various program revenue moneys received by DWD under the UI law that are not otherwise credited to other

segregated funds, including various moneys collected by DWD as interest and penalties under the UI law and all other nonfederal moneys received for the administration of the UI law that are not otherwise appropriated. Current law provides for depositing these revenues in appropriations in the general fund.

Other changes

This bill makes various changes to a) reorganize, clarify, and update provisions relating to the financing of the UI law; and b) address numerous out-of-date or erroneous cross-references in the UI law, including all of the following:

1. Repealing and consolidating certain appropriations and making other changes to clarify the funding sources and receiving appropriations for various revenues and expenses under the UI law.

2. Creating a program revenue appropriation for the Labor and Industry Review Commission to collect moneys received for the copying and generation of documents and for other services provided in carrying out its functions.

3. Changing certain out-of-date cross-references to federal law to reflect current federal law and the current numbering under the U.S. Code.

4. Repealing certain provisions that reference federal laws that have been repealed and deleting other obsolete references to state laws.

5. Correcting various cross-references that are otherwise incomplete or erroneous.

6. Replacing certain references to provisions in federal acts or to the Internal Revenue Code with references to the U.S. Code in order to facilitate accessibility to federal law.

7. Making other nonsubstantive changes to the unemployment insurance law to improve organization, modernize language, and provide further clarity, specificity, and consistency in the law.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.427 (1) (g) of the statutes is created to read:

2 20.427 (1) (g) *Agency collections.* All moneys received from fees or other
3 charges for copying of documents, generation of copies of documents from optical disc
4 or electronic storage, publication of books, and other services provided in carrying
5 out the functions of the commission.

6 **SECTION 2.** 20.445 (1) (gc) of the statutes is renumbered 20.445 (1) (wc) and
7 amended to read:

1 20.445 (1) (wc) *Unemployment administration*. ~~All From the unemployment~~
2 ~~administration fund, all~~ moneys received by the department under s. 108.19 ~~not~~
3 ~~otherwise appropriated under this subsection (1)~~ for the administration of ch. 108.

4 **SECTION 3.** 20.445 (1) (gd) of the statutes is renumbered 20.445 (1) (wd) and
5 amended to read:

6 20.445 (1) (wd) *Unemployment interest and penalty payments*. ~~All From the~~
7 ~~unemployment administration fund, all~~ moneys received as interest and penalties
8 collected under ss. 108.04 (11) (c) and (cm) ~~and (13) (e)~~ and 108.22 except interest and
9 penalties deposited under s. ~~108.19 (1q)~~, and forfeitures under s. ~~103.05 (5)~~, all
10 ~~moneys not appropriated under par. (gg) and 108.20 (3)~~, all moneys received as
11 forfeitures under s. 103.05 (5), all moneys received under s. 108.09 (5) (c), all moneys
12 received under s. 108.14 (16), all moneys received under s. 108.18 (1) (c), all moneys
13 transferred to this appropriation account from the appropriation account under par.
14 ~~(gh) (wh)~~, and all other nonfederal moneys received for the employment service or
15 for the administration of ch. 108 that are not otherwise appropriated under this
16 subsection, for the payment of benefits specified in s. 108.07 (5) ~~and 1987 Wisconsin~~
17 ~~Act 38, section 132 (1) (e) and (7)~~, for the payment of interest to employers under s.
18 108.17 (3m), for research relating to the condition of the unemployment reserve fund
19 under s. 108.14 (6), for administration of the unemployment insurance program and
20 federal or state unemployment insurance programs authorized by the governor
21 under s. 16.54, for satisfaction of any federal audit exception concerning a payment
22 from the unemployment reserve fund or any federal aid disallowance concerning the
23 unemployment insurance program, for assistance to the department of justice in the
24 enforcement of ch. 108, for the payment of interest due on advances from the federal
25 unemployment account under ~~title XII of the social security act~~ 42 USC 1321 to 1324

1 to the unemployment reserve fund, and for payments made to the unemployment
2 reserve fund to obtain a lower interest rate or deferral of interest payments on these
3 advances, ~~except as otherwise provided in s. 108.20.~~

4 **SECTION 4.** 20.445 (1) (gg) of the statutes is repealed.

5 **SECTION 5.** 20.445 (1) (gh) of the statutes is renumbered 20.445 (1) (wh) and
6 amended to read:

7 20.445 (1) (wh) *Unemployment information technology systems; assessments.*
8 ~~All From the unemployment administration fund, all~~ moneys received from
9 assessments levied under s. 108.19 (1e) (a) ~~and 1997 Wisconsin Act 39, section 164~~
10 ~~(2),~~ for the purpose specified in s. 108.19 (1e) (d). The treasurer of the unemployment
11 reserve fund may transfer moneys from this appropriation account to the
12 appropriation account under par. (gd) (wd).

13 **SECTION 6.** 20.445 (1) (gm) of the statutes is repealed.

14 **SECTION 7.** 20.445 (1) (n) of the statutes is amended to read:

15 20.445 (1) (n) *Employment assistance and unemployment insurance*
16 *administration; federal moneys.* All federal moneys received, as authorized by the
17 governor under s. 16.54, for the administration of employment assistance and
18 unemployment insurance programs of the department, for the performance of the
19 department's other functions under subch. I of ch. 106 and ch. 108, and to pay the
20 compensation and expenses of appeal tribunals and of employment councils
21 appointed under s. 108.14, to be used for such purposes, except as provided in s.
22 108.161 (3e), and, from the moneys received by this state under ~~section 903~~ 42 USC
23 1103 (d) ~~of the federal Social Security Act, as amended,~~ to transfer to the
24 appropriation account under par. (nb) an amount determined by the treasurer of the
25 unemployment reserve fund not exceeding the lesser of the amount specified in s.

1 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the
2 appropriation account under par. (nd) an amount determined by the treasurer of the
3 unemployment reserve fund not exceeding the lesser of the amount specified in s.
4 108.161 (4) (d) or the amounts in the schedule under par. (nd), to transfer to the
5 appropriation account under par. (ne) an amount not exceeding the lesser of the
6 amount specified in s. 108.161 (4) (d) or the sum of the amounts in the schedule under
7 par. (ne) and the amount determined by the treasurer of the unemployment reserve
8 fund that is required to pay for the cost of banking services incurred by the
9 unemployment reserve fund, and to transfer to the appropriation account under s.
10 20.427 (1) (k) an amount determined by the treasurer of the unemployment reserve
11 fund.

12 **SECTION 8.** 20.445 (1) (nb) of the statutes is amended to read:

13 20.445 (1) (nb) *Unemployment administration; information technology*
14 *systems.* From the moneys received from the federal government under ~~section 903~~
15 ~~42 USC 1103~~ (d) of the federal Social Security Act, as amended, as a continuing
16 appropriation, the amounts in the schedule, as authorized by the governor under s.
17 16.54, for the purpose specified in s. 108.19 (1e) (d). All moneys transferred from par.
18 (n) for this purpose shall be credited to this appropriation account. No moneys may
19 be expended from this appropriation unless the treasurer of the unemployment
20 reserve fund determines that such expenditure is currently needed for the purpose
21 specified in s. 108.19 (1e) (d).

22 **SECTION 9.** 20.445 (1) (nd) of the statutes is amended to read:

23 20.445 (1) (nd) *Unemployment administration; apprenticeship and other*
24 *employment services.* From the moneys received from the federal government under
25 ~~section 903~~ ~~42 USC 1103~~ (d) of the federal Social Security Act, as amended, the

1 amounts in the schedule, as authorized by the governor under s. 16.54, to be used for
2 administration by the department of apprenticeship programs under subch. I of ch.
3 106 and for administration and service delivery of employment and workforce
4 information services, including the delivery of reemployment assistance services to
5 unemployment insurance claimants. All moneys transferred from par. (n) for this
6 purpose shall be credited to this appropriation account. No moneys may be expended
7 from this appropriation unless the treasurer of the unemployment reserve fund
8 determines that such expenditure is currently needed for the purposes specified in
9 this paragraph.

10 **SECTION 10.** 20.445 (1) (ne) of the statutes is amended to read:

11 20.445 (1) (ne) *Unemployment insurance administration and bank service*
12 *costs.* From the moneys received by this state under ~~section 903 of the federal Social~~
13 ~~Security Act, as amended~~ 42 USC 1103, all moneys transferred from the
14 appropriation account under par. (n) to be used for the administration of
15 unemployment insurance and for the payment of the cost of banking services
16 incurred by the unemployment reserve fund. No moneys may be expended from this
17 appropriation unless the treasurer of the unemployment reserve fund determines
18 that such expenditure is currently needed for the purpose specified in this
19 paragraph.

20 **SECTION 11.** 20.445 (1) (u) of the statutes is amended to read:

21 20.445 (1) (u) *Unemployment interest payments and transfers.* From the
22 unemployment interest payment fund, all moneys received from assessments under
23 s. 108.19 (1m) (a) for the purpose of making the payments and transfers authorized
24 under s. 108.19 (1m) (f).

25 **SECTION 12.** 20.445 (1) (v) of the statutes is amended to read:

1 20.445 (1) (v) *Unemployment program integrity*. From the unemployment
2 program integrity fund, all moneys received from sources identified under s. 108.19
3 ~~(1s) 108.20 (2)~~ (a) for the purpose of making the payments authorized under s. 108.19
4 ~~(1s) 108.20 (2)~~ (b).

5 **SECTION 13.** 25.17 (1) (xe) of the statutes is amended to read:

6 25.17 (1) (xe) Unemployment interest payment fund (s. ~~108.19 (1q)~~ 108.20 (3));

7 **SECTION 14.** 25.17 (1) (xf) of the statutes is amended to read:

8 25.17 (1) (xf) Unemployment program integrity fund (s. ~~108.19 (1s)~~ 108.20 (2));

9 **SECTION 15.** 103.05 (5) (d) of the statutes is amended to read:

10 103.05 (5) (d) The department shall deposit all moneys received under this
11 subsection in the appropriation account under s. 20.445 (1) ~~(gd)~~ (wd).

12 **SECTION 16.** 108.02 (1) of the statutes is repealed.

13 **SECTION 17.** 108.02 (2) (c) of the statutes is amended to read:

14 108.02 (2) (c) In connection with the production or harvesting of any commodity
15 defined as an agricultural commodity in s. 15 (g) of the federal agricultural marketing
16 act, as amended (46 Stat. 1550, s. 3; under 12 USC 1141j) ~~or (f)~~, in connection with the
17 ginning of cotton, or in connection with the operation or maintenance of ditches, canals,
18 reservoirs, or waterways, not owned or operated for profit, used exclusively for
19 supplying and storing water for farming purposes.

20 **SECTION 18.** 108.02 (13) (c) 2. a. of the statutes is amended to read:

21 108.02 (13) (c) 2. a. Such crew leader holds a valid certificate of registration
22 under ~~the federal farm labor contractor registration act of 1963~~ 29 USC 1801 to 1872;
23 or substantially all the members of such crew operate or maintain tractors,
24 mechanized harvesting or cropdusting equipment, or any other mechanized
25 equipment which is provided by such crew leader; and

1 **SECTION 19.** 108.02 (14) of the statutes is amended to read:

2 108.02 (14) EMPLOYER'S ACCOUNT. "Employer's account" means ~~a~~ an employer's
3 separate account in the fund, ~~reflecting the employer's experience with respect to~~
4 ~~contribution credits and benefit charges under this chapter~~ maintained as required
5 under s. 108.16 (2) (a).

6 **SECTION 20.** 108.02 (15) (j) 5. of the statutes is amended to read:

7 108.02 (15) (j) 5. In any quarter in the employ of any organization exempt from
8 federal income tax under section 26 USC 501 (a) ~~of the internal revenue code~~, other
9 than an organization described in section 26 USC 401 (a) or 501 (c) (3) ~~of such code~~,
10 or under section 26 USC 521 ~~of the internal revenue code~~, if the remuneration for
11 such service is less than \$50;

12 **SECTION 21.** 108.02 (15) (k) 5. of the statutes is amended to read:

13 108.02 (15) (k) 5. With respect to which unemployment insurance is payable
14 under ~~the federal railroad unemployment insurance act (52 Stat. 1094)~~ 45 USC 351
15 to 369;

16 **SECTION 22.** 108.02 (17m) of the statutes is amended to read:

17 108.02 (17m) INDIAN TRIBE. "Indian tribe" has the meaning given in 25 USC
18 ~~450b~~ 5304 (e), and includes any subdivision, subsidiary, or business enterprise that
19 is wholly owned by such an entity.

20 **SECTION 23.** 108.02 (19) of the statutes is amended to read:

21 108.02 (19) NONPROFIT ORGANIZATIONS. "Nonprofit organization" means an
22 organization described in section 26 USC 501 (c) (3) ~~of the Internal Revenue Code~~
23 that is exempt from federal income tax under section 26 USC 501 (a) ~~of the Internal~~
24 ~~Revenue Code.~~

25 **SECTION 24.** 108.02 (26) (c) 9. of the statutes is repealed.

1 **SECTION 25.** 108.02 (26) (c) 14. of the statutes is repealed.

2 **SECTION 26.** 108.04 (7) (h) of the statutes is renumbered 108.04 (7) (u).

3 **SECTION 27.** 108.04 (11) (f) of the statutes is amended to read:

4 108.04 **(11)** (f) All amounts forfeited under par. (c) and all collections from
5 administrative assessments under par. (cm) shall be credited to the ~~administrative~~
6 ~~account~~ appropriation under s. 20.445 (1) (wd).

7 **SECTION 28.** 108.04 (12) (b) of the statutes is amended to read:

8 108.04 **(12)** (b) Any individual who receives, through the department, any other
9 type of unemployment benefit or allowance for a given week is ineligible for benefits
10 for that same week under this chapter, except as specifically required for conformity
11 with ~~the federal trade act of 1974 (P.L. 93-618)~~ 19 USC 2101 to 2497b.

12 **SECTION 29.** 108.04 (16) (d) 1. of the statutes is amended to read:

13 108.04 **(16)** (d) 1. The department shall not deny benefits under sub. (7) as a
14 result of the individual's leaving unsuitable work to enter or continue such training,
15 as a result of the individual's leaving work that the individual engaged in on a
16 temporary basis during a break in the training or a delay in the commencement of
17 the training, or because the individual left on-the-job training not later than 30 days
18 after commencing that training because the individual did not meet the
19 requirements of ~~the federal trade act~~ under 19 USC 2296 (c) (1) (B); and

20 **SECTION 30.** 108.04 (18) (a) of the statutes is amended to read:

21 108.04 **(18)** (a) The wages paid to an employee who performed services while
22 the employee was an alien shall, if based on such services, be excluded from the
23 employee's base period wages for purposes of sub. (4) (a) and ss. 108.05 (1) and 108.06
24 (1) unless the employee is an alien who was lawfully admitted for permanent
25 residence at the time such services were performed, was lawfully present for the

1 purpose of performing such services, or was permanently residing in the United
2 States under color of law at the time such services were performed, including an alien
3 who was lawfully present in the United States as a result of the application of the
4 provisions of ~~section 212 (d) (5) of the federal immigration and nationality act~~ (8 USC
5 1182 (d) (5)). All claimants shall be uniformly required to provide information as to
6 whether they are citizens and, if they are not, any determination denying benefits
7 under this subsection shall not be made except upon a preponderance of the evidence.

8 **SECTION 31.** 108.04 (18) (b) of the statutes is amended to read:

9 108.04 **(18)** (b) Any amendment of ~~s. 26 USC 3304 (a) (14) of the federal~~
10 ~~unemployment tax act~~ specifying conditions other than as stated in par. (a) for denial
11 of benefits based on services performed by aliens, or changing the effective date for
12 required implementation of par. (a) or such other conditions, ~~which~~ that is a condition
13 of approval of this chapter for full tax credit against the tax imposed by the federal
14 unemployment tax act, shall be applicable to this subsection.

15 **SECTION 32.** 108.05 (3) (a) of the statutes is amended to read:

16 108.05 **(3)** (a) Except as provided in pars. (c), (cm), (d) and (dm) and s. 108.062,
17 if an eligible employee earns wages in a given week, the first \$30 of the wages shall
18 be disregarded and the employee's applicable weekly benefit payment shall be
19 reduced by 67 percent of the remaining amount, except that no such employee is
20 eligible for benefits if the employee's benefit payment would be less than \$5 for any
21 week. For purposes of this paragraph, "wages" includes any salary reduction
22 amounts earned that are not wages and that are deducted from the salary of a
23 claimant by an employer pursuant to a salary reduction agreement under a cafeteria
24 plan, within the meaning of 26 USC 125, and any amount that a claimant would have
25 earned in available work under s. 108.04 (1) (a) which is treated as wages under s.

1 108.04 (1) (bm), but excludes any amount that a claimant earns for services
2 performed as a volunteer fire fighter, volunteer emergency medical services
3 practitioner, or volunteer emergency medical responder. In applying this paragraph,
4 the department shall disregard discrepancies of less than \$2 between wages reported
5 by employees and employers.

6 **SECTION 33.** 108.05 (3) (c) (intro.) of the statutes is amended to read:

7 108.05 (3) (c) (intro.) Except as provided in par. (cm) and when otherwise
8 authorized in an approved work-share program under s. 108.062, a claimant is
9 ineligible to receive any benefits for a week in which one or more of the following
10 applies to the claimant for 32 or more hours in that week:

11 **SECTION 34.** 108.05 (3) (cm) of the statutes is created to read:

12 108.05 (3) (cm) The department shall disregard an employee's hours worked
13 for an employer in a week and wages payable to the employee for the week when
14 determining the employee's benefit eligibility if all the following apply:

15 1. The employer requires the employee to work during the week as a condition
16 of continued employment with the employer.

17 2. The employer is unable to pay wages because a government unit or the
18 federal government fails to appropriate funds to the employer.

19 3. The employer is not expected to pay the employee for the services performed
20 or the employer will, until funds are appropriated by a government unit or the federal
21 government, indefinitely delay payment for the services performed.

22 **SECTION 35.** 108.07 (5) (intro.) of the statutes is amended to read:

23 108.07 (5) (intro.) Except as provided in sub. (7), whenever benefits which
24 that would otherwise be chargeable to the fund's balancing account are paid based
25 on wages paid by an employer that is not subject to the contribution requirements

1 of ss. 108.17 and 108.18, and the benefits are so chargeable under sub. (3) or s.
2 108.04 (1) (f) ~~or~~, (5), or (5g) or 108.14 (8n) (e), or under s. 108.16 (6m) (e) for benefits
3 specified in s. 108.16 (3) (b), the department shall charge the benefits as follows:

4 **SECTION 36.** 108.07 (5) (a) of the statutes is amended to read:

5 108.07 (5) (a) If no employer from which the claimant has base period wages
6 is subject to the contribution requirements of ss. 108.17 and 108.18, the benefits shall
7 be ~~charged to the administrative account and paid from the appropriation under s.~~
8 20.445 (1) (gd) (wd).

9 **SECTION 37.** 108.07 (5) (c) of the statutes is amended to read:

10 108.07 (5) (c) If 2 or more employers from which the claimant has base period
11 wages are not subject to the contribution requirements of ss. 108.17 and 108.18, and
12 one or more employers from which the claimant has base period wages are subject
13 to the contribution requirements of ss. 108.17 and 108.18, that percentage of the
14 employee's benefits which would otherwise be chargeable to the fund's balancing
15 account under sub. (3) or s. 108.04 (1) (f) ~~or~~, (5), or (5g), or under s. 108.16 (6m) (e)
16 for benefits specified in s. 108.16 (3) (b), shall be ~~charged to the administrative~~
17 ~~account and paid from the appropriation under s. 20.445 (1) (gd) (wd)~~.

18 **SECTION 38.** 108.07 (6) of the statutes is amended to read:

19 108.07 (6) The department may initially charge benefits otherwise chargeable
20 ~~to the administrative account~~ payable from the appropriation under s. 20.445 (1)
21 (wd) as provided under this section to the fund's balancing account, and periodically
22 reimburse the charges to the balancing account from the ~~administrative account~~
23 appropriation under s. 20.445 (1) (wd).

24 **SECTION 39.** 108.07 (7) of the statutes is amended to read:

1 108.07 (7) Whenever benefits are chargeable under sub. (1) or (2) based on
2 federal employment, the department shall charge the benefits to the federal
3 government, except that, if the federal government refuses to reimburse the benefits
4 to the department, the department shall charge the benefits to the administrative
5 account and pay them from the appropriation under s. 20.445 (1) (wd).

6 **SECTION 40.** 108.09 (5) (b) of the statutes is amended to read:

7 108.09 (5) (b) All testimony at any hearing under this section shall be recorded
8 by electronic means, but need not be transcribed unless either of the parties requests
9 a transcript before expiration of that party's right to further appeal under this
10 section and pays a fee to the commission in advance, the amount of which shall be
11 established by rule of the commission. When the commission provides a transcript
12 to one of the parties upon request, the commission shall also provide a copy of the
13 transcript to all other parties free of charge. The transcript fee collected shall be ~~paid~~
14 ~~to the administrative account~~ credited to the appropriation account under s. 20.427
15 (1) (g).

16 **SECTION 41.** 108.10 (intro.) of the statutes is amended to read:

17 **108.10 Settlement of issues other than benefit claims.** (intro.) Except as
18 provided in s. 108.245 (3), in connection with any issue arising under this chapter as
19 to the status or liability of an employing unit ~~in this state~~, for which no review is
20 provided under s. 108.09, 108.095, or 108.227 (5) and whether or not a penalty is
21 provided in s. 108.24, the following procedure shall apply:

22 **SECTION 42.** 108.13 (4) (a) 2. of the statutes is amended to read:

23 108.13 (4) (a) 2. "Legal process" has the meaning given under 42 USC ~~662 (e)~~
24 659 (i) (5).

25 **SECTION 43.** 108.14 (2m) of the statutes is amended to read:

1 108.14 **(2m)** In the discharge of their duties under this chapter an appeal
2 tribunal, commissioner, or other authorized representative of the department or
3 commission may administer oaths to persons appearing before them, take
4 depositions, certify to official acts, and by subpoenas, served in the manner in which
5 circuit court subpoenas are served, compel attendance of witnesses and the
6 production of books, papers, documents, and records necessary or convenient to be
7 used by them in connection with any investigation, hearing, or other proceeding
8 under this chapter. A party's attorney of record may issue a subpoena to compel the
9 attendance of a witness or the production of evidence. A subpoena issued by an
10 attorney must be in substantially the same form as provided in s. 805.07 (4) and must
11 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of
12 issuance, send a copy of the subpoena to the appeal tribunal or other representative
13 of the department responsible for conducting the proceeding. However, in any
14 investigation, hearing, or other proceeding involving the administration of oaths or
15 the use of subpoenas under this subsection due notice shall be given to any interested
16 party involved, who shall be given an opportunity to appear and be heard at any such
17 proceeding and to examine witnesses and otherwise participate therein. Witness
18 fees and travel expenses involved in proceedings under this chapter may be allowed
19 by the appeal tribunal or representative of the department at rates specified by
20 department rules, and shall be paid from the ~~administrative account~~ appropriation
21 under s. 20.445 (1) (n).

22 **SECTION 44.** 108.14 (3m) of the statutes is amended to read:

23 108.14 **(3m)** In any court action to enforce this chapter the department, the
24 commission, and the state may be represented by any licensed attorney who is an
25 employee of the department or the commission and is designated by either of them

1 for this purpose or at the request of either of them by the department of justice. If
2 the governor designates special counsel to defend, in behalf of the state, the validity
3 of this chapter or of any provision of ~~Title IX of the social security act~~ 42 USC 1101
4 to 1110, the expenses and compensation of the special counsel and of any experts
5 employed by the department in connection with that proceeding may be charged to
6 the ~~administrative account~~ appropriation under s. 20.445 (1) (wd). If the
7 compensation is being determined on a contingent fee basis, the contract is subject
8 to s. 20.9305.

9 **SECTION 45.** 108.14 (7) (c) of the statutes is repealed.

10 **SECTION 46.** 108.14 (8n) (a) of the statutes is amended to read:

11 108.14 **(8n)** (a) The department shall enter into a reciprocal arrangement
12 ~~which is approved by the U.S. secretary of labor pursuant to section~~ under 26 USC
13 3304 (a) (9) (B) of the internal revenue code, to provide more equitable benefit
14 coverage for individuals whose recent work has been covered by the unemployment
15 insurance laws of 2 or more jurisdictions.

16 **SECTION 47.** 108.14 (8n) (e) of the statutes is amended to read:

17 108.14 **(8n)** (e) The department shall charge this state's share of any benefits
18 paid under this subsection to the account of each employer by which the employee
19 claiming benefits was employed in the applicable base period, in proportion to the
20 total amount of wages he or she earned from each employer in the base period, except
21 that if s. 108.04 (1) (f), (5), ~~(5g)~~, (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a)
22 ~~or (b) to (c)~~, 108.07 (3), (3r), or (5) (b), or 108.133 (3) (f) would have applied to
23 employment by such an employer who is subject to the contribution requirements of
24 ss. 108.17 and 108.18, the department shall charge the share of benefits based on
25 employment with that employer to the fund's balancing account, or, if s. 108.04 (1)

1 (f) ~~or~~, (5), or (5g) or 108.07 (3) would have applied to an employer that is not subject
2 to the contribution requirements of ss. 108.17 and 108.18, the department shall
3 charge the share of benefits based on that employment in accordance with s. 108.07
4 (5) (a) and (b). The department shall also charge the fund's balancing account with
5 any other state's share of such benefits pending reimbursement by that state.

6 **SECTION 48.** 108.14 (12) (a) to (d) of the statutes are consolidated, renumbered
7 108.14 (12) (am) and amended to read:

8 108.14 **(12)** (am) Consistently Consistent with the provisions of ~~pars. (8) and~~
9 ~~(9) of section 303 (a) of Title III of the federal social security act, 42 USC 503 (a) (8)~~
10 and (9), the department shall expend all moneys received in the federal
11 administrative financing account from any federal agency under said Title III shall
12 be expended 42 USC ch. 7 subch. III solely for the purposes and in the amounts found
13 necessary by said that agency for the ~~proper and efficient~~ administration of this
14 chapter. ~~(b) Consistently with said provisions of said Title III, any~~ The department
15 shall replace, within a reasonable time, any such moneys, that were received prior
16 to before July 1, 1941, and ~~remaining~~ remained unencumbered on said that date, or
17 that were received on or after said that date, ~~which, because of any action or~~
18 ~~contingency, have been~~ if the moneys are lost or have been expended for purposes
19 other than, or in amounts in excess of, those found necessary by said the federal
20 agency for the ~~proper~~ administration of this chapter, ~~shall be replaced within a~~
21 ~~reasonable time. This paragraph is the declared policy of this state, as enunciated~~
22 ~~by the 1941 legislature, and shall be implemented as further provided in this~~
23 ~~subsection.~~ ~~(c).~~ If it is believed that any amount of money thus received has been
24 thus is lost or improperly expended, the department, on its own motion or on notice
25 from said the federal agency, shall promptly investigate and determine the matter

1 and shall, depending on the nature of its determination, take such steps as it may
2 deem considers necessary to protect the interests of the state. (d) If it is finally
3 determined that moneys ~~thus received~~ have been ~~thus~~ lost or improperly expended,
4 ~~then~~ the department shall either make the necessary replacement from ~~those~~
5 ~~moneys in the administrative account specified in s. 108.20 (2m)~~ the appropriation
6 under s. 20.445 (1) (wd) or shall submit, at the next budget hearings conducted by
7 the governor and at the budget hearings conducted by the next legislature convened
8 in regular session, a request that the necessary replacement be made by an
9 appropriation from the general fund.

10 **SECTION 49.** 108.14 (12) (e) of the statutes is renumbered 108.14 (12) (bm) and
11 amended to read:

12 108.14 (12) (bm) This subsection shall not be construed to relieve this state of
13 any obligation existing ~~prior to its enactment~~ before July 1, 1941, with respect to
14 moneys received ~~prior to~~ before July 1, 1941, ~~pursuant to said Title III~~ under 42 USC
15 ch. 7 subch. III.

16 **SECTION 50.** 108.14 (16) of the statutes is amended to read:

17 108.14 (16) The department shall have duplicated or printed, ~~and shall~~
18 ~~distribute without charge, such employment security~~ any reports, studies and,
19 forms, records, decisions, regulations, rules, or other materials, including the text of
20 this chapter ~~and, the handbook under sub. (23), and other~~ instructional or
21 explanatory pamphlets for employers or workers, as that it deems necessary for
22 public information or for the proper administration of this chapter; ~~but the.~~ The
23 department may collect a reasonable charge, which shall be credited to the
24 administrative appropriation account under s. 20.445 (1) (wd), for any such item the
25 cost of which is not fully covered by federal administrative grants.

1 **SECTION 51.** 108.14 (18) of the statutes is renumbered 108.19 (1e) (e) and
2 amended to read:

3 108.19 **(1e)** (e) No later than the end of the month following each quarter in
4 which the department expends moneys derived from assessments levied under ~~ss.~~
5 ~~108.19 (1e) this subsection~~, the department shall submit a report to the council on
6 unemployment insurance describing the use of the moneys expended and the status
7 at the end of the quarter of any project for which moneys were expended.

8 **SECTION 52.** 108.14 (23) (d) of the statutes is repealed.

9 **SECTION 53.** 108.14 (26) of the statutes is amended to read:

10 108.14 **(26)** The department shall prescribe by rule a standard affidavit form
11 that may be used by parties to appeals under ss. 108.09, 108.095, and 108.10 and
12 shall make the form available to employers and claimants. The form shall be
13 sufficient to qualify as admissible evidence in a hearing under this chapter if the
14 authentication is sufficient and the information set forth by the affiant is admissible,
15 but its use by a party does not eliminate the right of an opposing party to cross
16 examine the affiant concerning the facts asserted in the affidavit.

17 **SECTION 54.** 108.141 (1) (h) of the statutes is amended to read:

18 108.141 **(1)** (h) "State law" means the unemployment insurance law of any
19 state, that has been approved by the U.S. secretary of labor under ~~section~~ 26 USC
20 3304 of the internal revenue code.

21 **SECTION 55.** 108.141 (3g) (a) 3. b. of the statutes is amended to read:

22 108.141 **(3g)** (a) 3. b. The gross average weekly remuneration for the work
23 exceeds the claimant's weekly benefit rate plus any supplemental unemployment
24 benefits, as defined in section 26 USC 501 (c) (17) (D) of the internal revenue code,
25 then payable to the claimant;

1 **SECTION 56.** 108.141 (7) (a) of the statutes is amended to read:

2 108.141 (7) (a) The department shall charge the state's share of each week of
3 extended benefits to each employer's account in proportion to the employer's share
4 of the total wages of the employee receiving the benefits in the employee's base
5 period, except that if the employer is subject to the contribution requirements of ss.
6 108.17 and 108.18 the department shall charge the share of extended benefits to
7 which s. 108.04 (1) (f), (5), (5g), (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a)
8 ~~or (b) to (c)~~, 108.07 (3), (3r), or (5) (b), or 108.133 (3) (f) applies to the fund's balancing
9 account.

10 **SECTION 57.** 108.141 (7) (b) of the statutes is amended to read:

11 108.141 (7) (b) The department shall charge the full amount of extended
12 benefits based on employment for a government unit to the account of the
13 government unit, except that if s. 108.04 (5), (5g), or (7) applies and the government
14 unit has elected contribution financing the department shall charge one-half of the
15 government unit's share of the benefits to the fund's balancing account.

16 **SECTION 58.** 108.145 of the statutes is amended to read:

17 **108.145 Disaster unemployment assistance.** The department shall
18 administer under s. 108.14 (9m) the distribution of disaster unemployment
19 assistance to workers in this state who are not eligible for benefits whenever such
20 assistance is made available by the president of the United States under ~~26~~ 42 USC
21 5177 (a). In determining eligibility for assistance and the amount of assistance
22 payable to any worker who was totally self-employed during the first 4 of the last 5
23 most recently completed quarters preceding the date on which the worker claims
24 assistance, the department shall not reduce the assistance otherwise payable to the
25 worker because the worker receives one or more payments under the social security

1 act (~~42 USC 301 et seq.~~) ch. 7, for the same week that the worker qualifies for such
2 assistance.

3 **SECTION 59.** 108.15 (3) (d) of the statutes is amended to read:

4 108.15 (3) (d) If a government unit elects contribution financing for any
5 calendar year after the first calendar year it becomes newly subject to this chapter,
6 it shall be liable to reimburse the fund for any benefits based on prior employment.
7 If a government unit terminates its election of contribution financing, ss. 108.17 and
8 108.18 shall apply to employment in the prior calendar year, but after all benefits
9 based on such prior employment have been charged to its contribution account any
10 balance remaining in such account shall be transferred to the fund's balancing
11 account.

12 **SECTION 60.** 108.151 (2) (d) of the statutes is amended to read:

13 108.151 (2) (d) Sections 108.17 and 108.18 shall apply to all prior employment,
14 but after all benefits based on prior employment have been charged to any account
15 it has had under s. 108.16 (2) any balance remaining therein shall be transferred to
16 the fund's balancing account as if s. 108.16 (6) (c) or (6m) (d) applied.

17 **SECTION 61.** 108.152 (1) (d) of the statutes is amended to read:

18 108.152 (1) (d) If the Indian tribe or tribal unit is an employer ~~prior to~~ before
19 the effective date of an election, ss. 108.17 and 108.18 shall apply to all employment
20 ~~prior to~~ before the effective date of the election, but after all benefits based on prior
21 employment have been charged to any account that it has had under s. 108.16 (2),
22 the department shall transfer any positive balance or charge any negative balance
23 remaining therein to the fund's balancing account as if s. 108.16 (6) (c) and (6m) (d)
24 applied.

25 **SECTION 62.** 108.155 (2) (a) and (d) of the statutes are amended to read:

1 108.155 (2) (a) On October 2, 2016, the fund's treasurer shall set aside
2 \$2,000,000 in the fund's balancing account for accounting purposes. On an ongoing
3 basis, the fund's treasurer shall tally the amounts allocated to reimbursable
4 employers' accounts under s. 108.04 (13) (d) 4. c. and deduct those amounts from the
5 amount set aside plus any interest calculated thereon.

6 (d) If the department assesses reimbursable employers under par. (c), the
7 department shall determine the amount of assessments to be levied as provided in
8 sub. (3), and the fund's treasurer shall notify reimbursable employers that the
9 assessment will be imposed. Except as provided in sub. (3) (c), the assessment shall
10 be payable by each reimbursable employer that is subject to this chapter as of the
11 date the assessment is imposed. Assessments imposed under this section shall be
12 credited to the fund's balancing account.

13 **SECTION 63.** 108.16 (5) (c) of the statutes is amended to read:

14 108.16 (5) (c) While the state has an account in the "Unemployment Trust
15 Fund", public deposit insurance charges on the fund's balances held in banks,
16 savings banks, savings and loan associations, and credit unions in this state, the
17 premiums on surety bonds required of the fund's treasurer under this section, and
18 any other expense of administration otherwise payable from the fund's interest
19 earnings, shall be paid from the ~~administrative account~~ appropriation under s.
20 20.445 (1) (n) or (ne).

21 **SECTION 64.** 108.16 (6) (k) of the statutes is amended to read:

22 108.16 (6) (k) All payments to the fund from the ~~administrative account~~ as
23 ~~authorized under s. 108.20 (2m)~~ appropriation under s. 20.445 (1) (wd).

24 **SECTION 65.** 108.16 (6) (m) of the statutes is amended to read:

1 108.16 (6) (m) Any amounts transferred to the balancing account from the
2 unemployment interest payment fund under s. 108.19 (1m) (f).

3 **SECTION 66.** 108.16 (6m) (a) of the statutes is amended to read:

4 108.16 (6m) (a) The benefits thus chargeable under sub. (7) (a) or (b) or s.
5 108.04 (1) (f), (5), (5g), (7) ~~(h)~~ (u), (7m), (8) (a) ~~or (b)~~ to (c), (13) (c) or (d) or (16) (e),
6 108.07 (3), (3r), (5) (b), (5m), or (6), 108.133 (3) (f), 108.14 (8n) (e), 108.141, 108.15,
7 108.151, or 108.152 ~~or sub. (6) (e) or (7) (a) and (b)~~.

8 **SECTION 67.** 108.16 (6x) of the statutes is amended to read:

9 108.16 (6x) The department shall charge to the uncollectible reimbursable
10 benefits account the amount of any benefits paid from the fund's balancing account
11 that are reimbursable under s. 108.151 but for which the department does not receive
12 reimbursement after the department exhausts all reasonable remedies for collection
13 of the amount.

14 **SECTION 68.** 108.16 (8) (f) of the statutes is amended to read:

15 108.16 (8) (f) The successor shall take over and continue the transferor's
16 account, including its positive or negative balance and all other aspects of its
17 experience under this chapter in proportion to the payroll assignable to the
18 transferred business and the liability of the successor shall be proportioned to the
19 extent of the transferred business. The transferor and the successor shall be jointly
20 and severally liable for any amounts owed by the transferor ~~to the fund and to the~~
21 ~~administrative account~~ under this chapter at the time of the transfer, but a successor
22 under par. (c) is not liable for the debts of the transferor except in the case of fraud
23 or malfeasance.

24 **SECTION 69.** 108.16 (9) (a) of the statutes is amended to read:

1 108.16 (9) (a) Consistently with section 26 USC 3305 of the internal revenue
2 code, relating to federal instrumentalities which that are neither wholly nor
3 partially owned by the United States nor otherwise specifically exempt from the tax
4 imposed by section under 26 USC 3301 of the internal revenue code:

5 1. Any contributions required and paid under this chapter for ~~1939~~ or any
6 subsequent year by any such instrumentality, including any national bank, shall be
7 refunded to such that instrumentality in case this chapter is not certified with
8 respect to such year under s. 26 USC 3304 of said code.

9 2. No national banking association which is subject to this chapter shall be
10 required to comply with any of its provisions or requirements under this chapter, to
11 the extent that such compliance would be contrary to s. 26 USC 3305 of said code.

12 **SECTION 70.** 108.161 (title) of the statutes is amended to read:

13 **108.161 (title) Federal administrative financing account; Reed Act**
14 **distributions.**

15 **SECTION 71.** 108.161 (1) and (1m) of the statutes are consolidated, renumbered
16 108.161 (1) and amended to read:

17 108.161 (1) The fund's treasurer shall maintain within the fund an
18 employment security "federal administrative financing account", and shall credit
19 thereto to that account all amounts credited to the fund pursuant to the federal
20 ~~employment security administrative financing act (of 1954) and section 903 of the~~
21 ~~federal social security act, as amended. (1m) The treasurer of the fund shall also~~
22 ~~credit to said account~~ under 42 USC 1101 to 1103 and all federal moneys credited to
23 the fund pursuant to under sub. (8).

24 **SECTION 72.** 108.161 (2) of the statutes is amended to read:

1 108.161 (2) The requirements of ~~said section 903~~ 42 USC 1103 shall control any
2 appropriation, withdrawal, and use of any moneys in ~~said~~ the federal administrative
3 financing account.

4 **SECTION 73.** 108.161 (3) of the statutes is amended to read:

5 108.161 (3) ~~Consistently~~ Consistent with this chapter and ~~said section 903,~~
6 ~~such~~ 42 USC 1103, moneys in the federal administrative financing account shall be
7 used solely for benefits or employment security administration by the department,
8 including unemployment insurance, employment service, apprenticeship programs,
9 and related statistical operations.

10 **SECTION 74.** 108.161 (3e) of the statutes is amended to read:

11 108.161 (3e) Notwithstanding sub. (3), any moneys allocated under ~~section 903~~
12 ~~of the federal Social Security Act, as amended,~~ 42 USC 1103 for federal fiscal years
13 2000 and 2001 and the first \$2,389,107 of any distribution received by this state
14 under ~~section 903 of that act~~ 42 USC 1103 in federal fiscal year 2002 shall be used
15 solely for unemployment insurance administration.

16 **SECTION 75.** 108.161 (4) of the statutes is amended to read:

17 108.161 (4) ~~Such moneys~~ Moneys in the federal administrative financing
18 account shall be encumbered and spent for employment security administrative
19 purposes only pursuant to, and after the effective date of, a specific legislative
20 appropriation enactment that does all of the following:

21 (a) ~~Stating~~ States for which such purposes and in what amounts the
22 appropriation is being made to ~~the administrative account created by s. 108.20.~~

23 (b) ~~Directing~~ Directs the fund's treasurer to transfer the appropriated amounts
24 to ~~the administrative account~~ the appropriation account under s. 20.445 (1) (n) only
25 as and to the extent that they are currently needed for such expenditures, and

1 ~~directing~~ directs that there shall be restored to the federal administrative financing
2 account ~~created by sub. (1)~~ any amount thus transferred ~~which~~ that has ceased to be
3 needed or available for such expenditures.

4 (c) ~~Specifying~~ Specifies that the appropriated amounts are available for
5 obligation solely within the 2 years beginning on the appropriation law's date of
6 enactment. This paragraph does not apply to the appropriations under s. 20.445 (1)
7 (nd) and (ne) or to any amounts expended from the appropriation under s. 20.445 (1)
8 (nb) from moneys transferred to this state on March 13, 2002, pursuant to ~~section 903~~
9 ~~(d) of the federal Social Security Act~~ 42 USC 1103 (d).

10 (d) ~~Limiting~~ Limits the total amount ~~which~~ that may be obligated during any
11 fiscal year to the aggregate of all amounts credited under sub. (1), including amounts
12 credited ~~pursuant to~~ under sub. (8), reduced at the time of any obligation by the sum
13 of the moneys obligated and charged against any of the amounts credited.

14 **SECTION 76.** 108.161 (5) and (6) of the statutes are consolidated, renumbered
15 108.161 (5m) and amended to read:

16 108.161 **(5m)** The total of the amounts ~~thus~~ appropriated under sub. (4) for use
17 in any fiscal year shall in no event exceed the moneys available for such use
18 ~~hereunder~~ under this section, considering the timing of credits ~~hereunder~~ under this
19 section and the sums already spent or appropriated or transferred or otherwise
20 encumbered ~~hereunder~~. ~~(6)~~ under this section. The fund's treasurer shall keep a
21 record of all such ~~times and amounts; shall charge~~ transactions and shall do all of the
22 following:

23 (a) Charge each sum against the earliest credits ~~duly~~ available therefor; ~~shall~~
24 include.

1 **(b)** Include any sum ~~thus that has been~~ appropriated but not yet spent
2 hereunder under this section in computing the fund's net balance as of the close of
3 any month, in line with the federal requirement that any such sum shall, until spent,
4 be considered part of the fund; ~~and shall certify.~~

5 **(c)** Certify the relevant facts whenever necessary hereunder.

6 **SECTION 77.** 108.161 (7) of the statutes is amended to read:

7 108.161 (7) If any moneys appropriated hereunder under this section are used
8 to buy and hold suitable land, ~~with a view to the future construction of an~~ and to build
9 a suitable employment security building thereon, and if such land is later sold or
10 transferred to other use, the proceeds of such sale (, or the value of such land when
11 transferred), shall be credited to the federal administrative financing account
12 ~~created by sub. (1)~~ except as otherwise provided in ss. 13.48 (14) and 16.848.

13 **SECTION 78.** 108.161 (8) of the statutes is amended to read:

14 108.161 (8) If any sums are appropriated and spent hereunder under this
15 section to buy land and to build a suitable employment security building thereon, or
16 to purchase information technology hardware and software, ~~then~~ any federal
17 moneys thereafter credited to the fund or paid to the department by way of gradual
18 reimbursement of such employment security capital expenditures, or in lieu of the
19 estimated periodic amounts ~~which that~~ would otherwise (, in the absence of such
20 expenditures), be federally granted for the rental of substantially equivalent
21 quarters, shall be credited to the federal administrative financing account ~~created~~
22 ~~by sub. (1)~~, consistently with any federal requirements applicable to the handling
23 and crediting of such moneys.

24 **SECTION 79.** 108.161 (9) of the statutes is amended to read:

1 108.161 (9) Any land and building or office quarters acquired under this section
2 shall continue to be used for employment security purposes. Realty or quarters may
3 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)
4 or 16.848 (1) and may not be sold or transferred without the governor's approval. The
5 proceeds from the sale, or the value of realty or quarters upon transfer, shall be
6 credited to the federal administrative financing account established in sub. (1) or
7 credited to the ~~fund established in s. 108.20~~ appropriate appropriation account
8 under s. 20.445, or both as determined by the department in accordance with federal
9 requirements. Equivalent substitute rent-free quarters may be provided, as
10 federally approved. Amounts credited under this subsection shall be used solely to
11 finance employment security quarters according to federal requirements.

12 **SECTION 80.** 108.162 (7) of the statutes is amended to read:

13 108.162 (7) Any amount appropriated under s. 20.445 (1) (na) ~~which~~ that has
14 not been obligated shall be available for employment security local office building
15 projects, consistent with this section and ~~ss. s.~~ s. 108.161 and 108.20.

16 **SECTION 81.** 108.17 (2m) of the statutes is amended to read:

17 108.17 (2m) When a written statement of account is issued to an employer by
18 the department, ~~showing as duly credited~~ that shows a specified amount received
19 from the employer under this chapter as having been credited, no other form of state
20 receipt ~~therefor~~ is required.

21 **SECTION 82.** 108.17 (3) of the statutes is amended to read:

22 108.17 (3) If an employing unit ~~makes application~~ applies to the department
23 to adjust an alleged overpayment by the employer of contributions or interest under
24 this chapter, and files such an application within 3 years after the close of the
25 calendar year in which such payment was made, the department shall ~~make a~~

1 ~~determination~~ determine under s. 108.10 ~~as to the existence and whether and to~~
2 ~~what~~ extent of any such an overpayment, ~~and said section shall apply to such~~
3 ~~determination~~ exists. Except as provided in sub. (3m), the department shall allow
4 an employer a credit for any amount determined under s. 108.10 to have been
5 erroneously paid by the employer, without interest, against its future contribution
6 payments; or, if the department finds it impracticable to allow the employer such a
7 credit, it shall refund ~~such~~ the overpayment to the employer, without interest, from
8 the fund or the ~~administrative account~~, ~~as the case may be~~ appropriate appropriation
9 under s. 20.445.

10 **SECTION 83.** 108.17 (3m) of the statutes is amended to read:

11 108.17 **(3m)** If an appeal tribunal or the commission issues a decision under
12 s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is
13 determined that an amount has been erroneously paid by an employer, the
14 department shall, from the ~~administrative account~~ appropriation under s. 20.445 (1)
15 (wd), credit the employer with interest at the rate of 0.75 percent per month or
16 fraction thereof on the amount of the erroneous payment. Interest shall accrue from
17 the month which the erroneous payment was made until the month in which it is
18 either used as a credit against future contributions or refunded to the employer.

19 **SECTION 84.** 108.18 (3) (c) of the statutes is amended to read:

20 108.18 **(3)** (c) Permitting the employer to pay such lower rate is consistent with
21 the relevant conditions then applicable to additional credit allowance for such year
22 under ~~section 26 USC~~ 3303 (a) of the federal unemployment tax act, any other
23 provision to the contrary notwithstanding.

24 **SECTION 85.** 108.18 (7) (a) 1. of the statutes is amended to read:

1 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make
2 payments to the fund during the month of November in excess of those required by
3 this section and s. 108.19 (1), (1e), and (1f). Each payment shall be credited to the
4 employer's account for the purpose of computing the employer's reserve percentage
5 as of the immediately preceding computation date.

6 **SECTION 86.** 108.18 (7) (h) of the statutes is amended to read:

7 108.18 (7) (h) The department shall establish contributions, other than those
8 contributions required by this section and assessments required under s. 108.19 (1),
9 ~~(1e), and (1f)~~ and contributions other than those submitted during the month of
10 November or authorized under par. (f) or (i) 2., as a credit, without interest, against
11 future contributions payable by the employer or shall refund the contributions at the
12 employer's option.

13 **SECTION 87.** 108.19 (title) of the statutes is repealed and recreated to read:

14 **108.19** (title) **Special assessments.**

15 **SECTION 88.** 108.19 (1) of the statutes is renumbered 108.19 (1) (a) and
16 amended to read:

17 108.19 (1) (a) Each employer subject to this chapter shall regularly ~~contribute~~
18 ~~to the administrative account at the rate of two-tenths of one~~ pay an assessment
19 equal to 0.2 percent per year on its payroll, except that the department may prescribe
20 at the close of any fiscal year such lower rates ~~of contribution~~ under this section
21 subsection, to apply to classes of employers throughout the ensuing fiscal year, as will
22 in the department's judgment adequately finance the administration of this chapter,
23 and as will in the department's judgment fairly represent the relative cost of the
24 services rendered by the department to each such class.

25 **SECTION 89.** 108.19 (1) (d) of the statutes is created to read:

1 108.19 (1) (d) Assessments under this subsection shall be credited to the
2 appropriation account under s. 20.445 (1) (wc).

3 **SECTION 90.** 108.19 (1e) (a) of the statutes is amended to read:

4 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an
5 employer that finances benefits by reimbursement in lieu of contributions under s.
6 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
7 under s. 108.18 and this section, pay an assessment ~~to the administrative account~~
8 for each year ~~prior to~~ before the year 2010 equal to the lesser of 0.01 percent of its
9 payroll for that year or the solvency contribution that would otherwise be payable
10 by the employer under s. 108.18 (9) for that year.

11 **SECTION 91.** 108.19 (1e) (cm) of the statutes is created to read:

12 108.19 (1e) (cm) Assessments under this subsection shall be credited to the
13 appropriation under s. 20.445 (1) (wh).

14 **SECTION 92.** 108.19 (1e) (d) of the statutes is amended to read:

15 108.19 (1e) (d) The department may expend the moneys received from
16 assessments levied under this subsection in the amounts authorized under s. 20.445
17 (1) ~~(gh)~~ (wh) for the renovation and modernization of unemployment insurance
18 information technology systems, specifically including development and
19 implementation of a new system and reengineering of automated processes and
20 manual business functions.

21 **SECTION 93.** 108.19 (1f) (a) of the statutes is amended to read:

22 108.19 (1f) (a) Except as provided in par. (b), each employer, other than an
23 employer that finances benefits by reimbursement in lieu of contributions under s.
24 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
25 under s. 108.18 and this section, pay an assessment for each year equal to the lesser

1 of 0.01 percent of its payroll for that year or the solvency contribution that would
2 otherwise be payable by the employer under s. 108.18 (9) for that year.

3 (d) Assessments under this ~~paragraph~~ subsection shall be deposited in the
4 unemployment program integrity fund.

5 **SECTION 94.** 108.19 (1f) (c) of the statutes is amended to read:

6 108.19 **(1f)** (c) Notwithstanding par. (a), the department may, if it finds that the
7 full amount of the levy is not required to effect the purposes specified in ~~sub. (1s)~~ s.
8 108.20 (2) (b) for any year, prescribe a reduced levy for that year and in such case shall
9 publish in the notice under par. (b) the rate of the reduced levy.

10 **SECTION 95.** 108.19 (1m) of the statutes is renumbered 108.19 (1m) (a) and
11 amended to read:

12 108.19 **(1m)** (a) Each employer subject to this chapter as of the date a rate is
13 established under this subsection shall pay an assessment ~~to the unemployment~~
14 ~~interest payment fund~~ at a rate established by the department sufficient to pay
15 interest due on advances from the federal unemployment account under Title XII of
16 ~~the federal social security act~~, 42 USC 1321 to 1324. The rate established by the
17 department for employers who finance benefits under s. 108.15 (2), 108.151 (2), or
18 108.152 (1) shall be 75 percent of the rate established for other employers. The
19 amount of any employer's assessment shall be the product of the rate established for
20 that employer multiplied by the employer's payroll of the previous calendar year as
21 taken from quarterly employment and wage reports filed by the employer under s.
22 108.205 (1) or, in the absence of the filing of such reports, estimates made by the
23 department.

24 (d) Each assessment made under this subsection is due within 30 days after the
25 date the department issues the assessment. ~~If the~~

1 (f) The department shall use amounts collected from employers under this
2 ~~subsection exceed the amounts needed to pay interest due~~ on advances from the
3 ~~federal unemployment account under 42 USC 1321 to 1324. If the amounts collected~~
4 ~~exceed the amounts needed to pay that interest for a given year,~~ the department shall
5 use ~~any~~ the excess to pay interest owed in subsequent years on advances from the
6 federal unemployment account. If the department determines that additional
7 interest obligations are unlikely, the department shall transfer the excess to the
8 fund's balancing account ~~of the fund,~~ the unemployment program integrity fund, or
9 both in amounts determined by the department.

10 **SECTION 96.** 108.19 (1m) (e) of the statutes is created to read:

11 108.19 **(1m)** (e) Assessments under this subsection shall be deposited in the
12 unemployment interest payment fund.

13 **SECTION 97.** 108.19 (1n) of the statutes is renumbered 108.19 (1m) (b) and
14 amended to read:

15 108.19 **(1m)** (b) The department shall publish as a class 1 notice under ch. 985
16 any rate established under ~~sub. (1m) par. (a)~~ within 10 days of after the date that the
17 rate is established.

18 **SECTION 98.** 108.19 (1p) of the statutes is renumbered 108.19 (1m) (c) and
19 amended to read:

20 108.19 **(1m)** (c) Notwithstanding ~~sub. (1m) par. (a),~~ an employer having a
21 payroll of \$25,000 or less for the preceding calendar year is exempt from any
22 assessment under ~~sub. (1m)~~ this subsection.

23 **SECTION 99.** 108.19 (1q) of the statutes is renumbered 108.20 (3) and amended
24 to read:

1 108.20 (3) UNEMPLOYMENT INTEREST PAYMENT FUND. There is created a separate,
2 nonlapsible trust fund designated as the unemployment interest payment fund
3 consisting of all amounts collected under ~~sub. s. 108.19~~ (1m) (a) and all interest and
4 penalties on those amounts collected under s. 108.22.

5 **SECTION 100.** 108.19 (1s) of the statutes is renumbered 108.20 (2), and 108.20
6 (2) (a) 3., as renumbered, is amended to read:

7 108.20 (2) (a) 3. Amounts transferred under ~~sub. (1m)~~ s. 108.19 (1m) (f).

8 **SECTION 101.** 108.19 (2) of the statutes is renumbered 108.19 (1) (b) and
9 amended to read:

10 108.19 (1) (b) If the department finds, at any time within a fiscal year for which
11 it has prescribed lower ~~contribution~~ rates to the ~~administrative account~~ than the
12 maximum rate permitted under ~~sub. (1) par. (a)~~, that such lower rates will not
13 adequately finance the administration of this chapter or are excessive for that
14 purpose, the department may by ~~general~~ rule prescribe a new schedule of rates in no
15 case exceeding the specified maximum to apply under this ~~section~~ subsection for the
16 balance of the fiscal year.

17 **SECTION 102.** 108.19 (2m) of the statutes is renumbered 108.19 (1) (c) and
18 amended to read:

19 108.19 (1) (c) Within the limit specified by ~~sub. (1)~~ under par. (a), the
20 department may by rule prescribe at any time as to any period any such rate or rates
21 or schedule as it deems necessary and proper ~~hereunder~~ under this subsection.
22 Unless thus prescribed, no such rate or rates or schedule shall apply under ~~sub. (1)~~
23 ~~or (2) par. (a) or (b)~~.

24 **SECTION 103.** 108.19 (3) of the statutes is repealed.

1 **SECTION 104.** 108.19 (4) of the statutes is renumbered 108.18 (1) (c) and
2 amended to read:

3 108.18 (1) (c) ~~If section 303 Notwithstanding par. (b), if 42 USC 503 (a) (5) of~~
4 ~~title III of the social security act and section 26 USC 3304 (a) (4) of the internal~~
5 ~~revenue code are amended to permit a state agency to use, in financing~~
6 ~~administrative expenditures incurred in carrying out its employment security~~
7 ~~functions, some any part of the moneys collected or to be collected under the state~~
8 ~~unemployment insurance law, an employer's contributions in partial or complete~~
9 ~~substitution for grants under title III 42 USC 501 to 506, then this chapter shall, by~~
10 ~~rule of the department, be modified in the manner and to the extent and within the~~
11 ~~limits necessary to permit such use by the department under this chapter; and the~~
12 ~~modifications shall become effective on the same date as such use becomes~~
13 ~~permissible under the federal amendments the department may credit any portion~~
14 ~~of that part of an employer's contributions to the appropriation under s. 20.445 (1)~~
15 ~~(wd).~~

16 **SECTION 105.** 108.20 of the statutes is repealed and recreated to read:

17 **108.20 Segregated funds. (1) UNEMPLOYMENT ADMINISTRATION FUND.** There
18 is created a separate, nonlapsible trust fund designated as the unemployment
19 administration fund consisting of moneys credited to the appropriation accounts
20 under s. 20.445 (1) (wc), (wd), and (wh).

21 **(2) UNEMPLOYMENT PROGRAM INTEGRITY FUND.**

22 **SECTION 106.** 108.22 (1) (am) of the statutes is amended to read:

23 108.22 (1) (am) The interest, penalties, and tardy filing fees levied under pars.
24 (a), (ac), (ad), and (af) shall be paid to the department and credited to the
25 ~~administrative account~~ appropriation under s. 20.445 (1) (wd).

1 **SECTION 107.** 108.22 (1m) of the statutes is amended to read:

2 108.22 (1m) If any person owes any contributions, reimbursements or
3 assessments under s. 108.15, 108.151, 108.152, 108.155, or 108.19 (~~1m~~), benefit
4 overpayments, interest, fees, payments for forfeitures, other penalties, or any other
5 amount to the department under this chapter and fails to pay the amount owed, the
6 department has a perfected lien upon the right, title, and interest in all of the
7 person's real and personal property located in this state in the amount finally
8 determined to be owed, plus costs. Except where creation of a lien is barred or stayed
9 by bankruptcy or other insolvency law, the lien is effective upon the earlier of the date
10 on which the amount is first due or the date on which the department issues a
11 determination of the amount owed under this chapter and shall continue until the
12 amount owed, plus costs and interest to the date of payment, is paid, except as
13 provided in sub. (8) (d). If a lien is initially barred or stayed by bankruptcy or other
14 insolvency law, it shall become effective immediately upon expiration or removal of
15 such bar or stay. The perfected lien does not give the department priority over
16 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges
17 whose interests have been recorded before the department's lien is recorded.

18 **SECTION 108.** 108.22 (8e) of the statutes is amended to read:

19 108.22 (8e) If the department determines a payment has been made to an
20 unintended recipient erroneously without fault on the part of the intended payee or
21 payee's authorized agent, the department may issue the correct payment to the
22 intended payee if necessary, and may recover the amount of the erroneous payment
23 from the recipient under this section or s. 108.225 or 108.245. Any amount so
24 recovered shall be credited to the fund's balancing account.

25 **SECTION 109.** 108.223 (2) (b) of the statutes is amended to read:

1 108.223 (2) (b) The department shall enter into agreements with financial
2 institutions doing business in this state to operate the financial record matching
3 program under this section. An agreement shall require the financial institution to
4 participate in the financial record matching program by electing either the financial
5 institution matching option under sub. (3) or the state matching option under sub.
6 (4). The financial institution and the department may by mutual agreement ~~make~~
7 ~~changes to~~ amend the agreement. A financial institution that wishes to choose a
8 different matching option shall provide the department with at least 60 days' notice.
9 The department shall furnish the financial institution with a signed copy of the
10 agreement.

11 **SECTION 110.** 108.23 of the statutes is amended to read:

12 **108.23 Preference of required payments.** In the event of an employer's
13 dissolution, reorganization, bankruptcy, receivership, assignment for benefit of
14 creditors, judicially confirmed extension proposal or composition, or any analogous
15 situation including the administration of estates in circuit courts, the payments
16 required of the employer under this chapter shall have preference over all claims of
17 general creditors and shall be paid next after the payment of preferred claims for
18 wages. If the employer is indebted to the federal government for taxes due under the
19 federal unemployment tax act and a claim for the taxes has been duly filed, the
20 amount of contributions which should be paid to allow the employer the maximum
21 offset against the taxes shall have preference over preferred claims for wages and
22 shall be on a par with debts due the United States, if by establishing the preference
23 the offset against the federal tax can be secured under s. 26 USC 3302 (a) (3) of the
24 ~~federal unemployment tax act.~~

25 **SECTION 111.** 108.24 (3) (a) 3. a. of the statutes is amended to read:

1 108.24 (3) (a) 3. a. Refrain from claiming or accepting benefits, participating
2 in an audit or investigation by the department, or testifying in a hearing held under
3 s. 108.09, 108.095, or 108.10.

4 **SECTION 112.** 108.24 (3) (a) 4. of the statutes is amended to read:

5 108.24 (3) (a) 4. Discriminates or retaliates against an individual because the
6 individual claims benefits, participates in an audit or investigation by the
7 department under this chapter, testifies in a hearing under s. 108.09, 108.095, or
8 108.10, or exercises any other right under this chapter.

9 **SECTION 113. Fiscal changes.**

10 (1) The unencumbered balance in the appropriation account under s. 20.445 (1)
11 (gg), 2017 stats., immediately before the effective date of the repeal of s. 20.445 (1)
12 (gg), 2017 stats., and the unencumbered balance in the appropriation account under
13 s. 20.445 (1) (gm), 2017 stats., immediately before the effective date of the repeal of
14 s. 20.445 (1) (gm), 2017 stats., are transferred to the appropriation account under s.
15 20.445 (1) (wd), as affected by this act.

16 (2) (a) The unencumbered balance in the appropriation account under s. 20.445
17 (1) (gc) is transferred to the appropriation account under s. 20.445 (1) (wc).

18 (b) The unencumbered balance in the appropriation account under s. 20.445 (1)
19 (gd) is transferred to the appropriation account under s. 20.445 (1) (wd).

20 (c) The unencumbered balance in the appropriation account under s. 20.445 (1)
21 (gh) is transferred to the appropriation account under s. 20.445 (1) (wh).

22 **SECTION 114. Initial applicability.**

23 (1) The treatment of ss. 20.445 (1) (gd) (with respect to the payment of benefits
24 charged under s. 108.07 (7)), 108.05 (3) (a), (c) (intro.), and (cm), and 108.07 (7) first
25 applies to claims filed on the effective date of this subsection.

Prepared by: Bureau of Legal Affairs

Date: November 18, 2019

Re: LRB-4920/P1 – statutory language draft for proposals D19-01, D19-03, D19-07, D19-19, D19-20, and D19-22

The Legislative Reference Bureau drafted statutory language for proposals 1, 3, 7, 19, 20, and 22.

Bill Section	Proposal Number and Name	Notes
1-6; 21(1)	D19-19 – DWD Reports to Legislature	
7	D19-22 – Prohibit DOR Collection	
8, 20	D19-07 – Department Error	Initially applies to determinations issued on the effective date of the bill.
9-11, 19, 21(2)	D19-03 – Fiscal Agent Election	First takes effect January 1, 2021, to permit the Department to implement the proposal properly.
12	D19-20 – Effect of Criminal Conviction	
13-18	D19-01 – Reimbursable Employer Debt Assessment changes	



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4920/P1
MED&MIM:kjf&ahe

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 16.48 (1) (b) and 16.48 (2); **to renumber and amend** 16.48 (1)
2 (a) (intro.) and 16.48 (1) (a) 1., 2., 3., 4., 5. and 6.; **to amend** 16.48 (3), 71.93 (8)
3 (b) 2., 108.02 (13) (k), 108.065 (1e) (intro.), 108.151 (7) (c), 108.151 (7) (f),
4 108.155 (2) (a), 108.16 (6w) and 108.22 (10); and **to create** 16.48 (4), 108.02
5 (10e) (c), 108.065 (3m), 108.101 (5), 108.151 (7) (i) and 108.16 (6m) (j) of the
6 statutes; **relating to:** various changes to the unemployment insurance law.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

Unemployment insurance financial outlook statement; council report; special committee

Under current law, DWD must submit a statement regarding the unemployment insurance financial outlook to the governor and legislative leadership by April 15 of every odd-numbered year. The report must contain all of the following: 1) financial projections of unemployment insurance operations, including benefit payments, tax collections, borrowing or debt repayments, and any amounts of interest charges and the economic and public policy assumptions upon which the projections are based, and the impact upon the projections of variations from those assumptions; 2) proposed changes to the laws relating to unemployment

insurance financing, benefits, and administration and financial projections under the proposed changes; 3) if there are significant cash reserves in the unemployment fund, the justifications for maintaining them; and 4) if program debt is projected at the end of the forecast period, the reasons DWD is not proposing to liquidate the debt.

This bill changes the submittal deadline of the statement to May 31 of every even-numbered year. The bill also requires the statement to contain proposed methods for liquidating any debt, instead of the reasons DWD is not proposing to liquidate any debt.

Under current law, DWD must submit a report of the activities of the Council on Unemployment Insurance to the governor and legislative leadership by May 15 of each odd-numbered year. Current law also requires DWD to submit to each member of the legislature by June 15 of each odd-numbered year an updated statement of unemployment insurance financial outlook.

The bill replaces the two aforementioned requirements with a single requirement for DWD to submit, by January 31 of each even-numbered year, a report of the activities of the Council on Unemployment Insurance and the most recent statement regarding the unemployment insurance financial outlook to the governor and legislative leadership, rather than to every member of the legislature.

Finally, under current law, after the report and statement are submitted to the governor and leadership on May 15 of each odd-numbered year, the governor may convene a special committee to review the financial outlook statement and the activities report. This bill repeals that provision. Under current law, the governor may otherwise convene a committee by executive order.

Effect of criminal convictions

Current law provides that no finding of fact or law, determination, decision, or judgment in any action or administrative or judicial proceeding in law or equity not arising under the UI law made with respect to the rights or liabilities of a party to an action or proceeding under the UI law is binding in an action or proceeding under the UI law.

The bill provides that notwithstanding this provision, a final order or judgment of conviction for a crime entered by a court is binding on the convicted person in an action or proceeding under the UI law that relates to the criminal conviction, and that a person convicted of a crime is precluded from denying the essential allegations of the criminal offense that is the basis for the conviction in an action or proceeding under the UI law.

Reimbursable employer debt assessment

Under current law, DWD must annually determine the total amount due and uncollectible from nonprofit employers that have elected what is known as reimbursement financing (reimbursable employers), and DWD must then charge that amount to an uncollectible reimbursable benefits account in the unemployment reserve fund. Whenever, as of a given year, that account has a negative balance of \$5,000 or more, DWD must assess all such nonprofit reimbursable employers to reimburse for the uncollectible amount, except that employers that would otherwise be assessed less than \$10 are not assessed, and their portion is instead applied to the amount owed by other employers on a pro rata basis.

Also under current law, pursuant to 2015 Wisconsin Act 334, \$2,000,000 was set aside in the unemployment reserve fund to repay reimbursable employers for erroneous payments charged to them that resulted from a false statement or representation (e.g., identity theft).

The bill does the following:

1. Raises the threshold for charging a reimbursable nonprofit employer the assessment to \$20 instead of \$10.
2. Allows DWD, in lieu of or in addition to assessing nonprofit reimbursable employers as described above, to apply moneys from the \$2,000,000 set aside to the uncollectible reimbursable benefits account described above, subject to certain limitations.

Waiver of overpayments

Current law requires the recovery of benefits that were erroneously paid to an individual to be waived if certain conditions apply, including that the erroneous payment was the result of a departmental error. Current law specifies what does and does not constitute a “departmental error” and also provides that if a determination or decision is amended, modified, or reversed by an appeal tribunal (administrative law judge), the Labor and Industry Review Commission, or any court, that action is not to be treated as establishing a departmental error.

This bill specifically provides that, for the purposes of the waiver of recovery of benefits, a “departmental error” does not include an error made by an administrative law judge.

Collection of debt by Department of Revenue

Subject to certain exceptions, current law requires a state agency and the Department of Revenue to enter into a written agreement to have DOR collect certain amounts owed to the state agency. This bill prohibits DOR from entering into an agreement with DWD for the collection of amounts owed to DWD under the UI law.

Fiscal agent election of employer status

Generally, under current law, an individual who receives long-term support services in his or her home through certain government-funded care programs is considered to be an employer under the UI law of a person who provides those services to the individual. Such individuals may use fiscal agents, whose responsibilities include remitting any federal UI taxes or state UI contributions owed by the individual as a result of that employment.

The bill allows a private agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent to such an individual receiving long-term support services to elect to instead to be the employer of one or more employees providing those services, subject to certain requirements.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.48 (1) (a) (intro.) of the statutes is renumbered 16.48 (1) (intro.)
2 and amended to read:

3 16.48 (1) (intro.) No later than ~~April 15~~ May 31 of each ~~odd-numbered~~
4 even-numbered year, the secretary of workforce development shall prepare and
5 furnish to the governor, the speaker of the assembly, the minority leader of the
6 assembly, ~~and the majority and minority leaders of the senate,~~ and the council on
7 unemployment insurance, a statement of unemployment insurance financial
8 outlook, which shall contain all of the following, together with the secretary's
9 recommendations and an explanation for such recommendations:

10 **SECTION 2.** 16.48 (1) (a) 1., 2., 3., 4., 5. and 6. of the statutes are renumbered
11 16.48 (1) (am), (bm), (c), (d), (e) and (f), and 16.48 (1) (bm), (c) and (f), as renumbered,
12 are amended to read:

13 16.48 (1) (bm) Specific proposed changes, if any, in the laws relating to
14 unemployment insurance financing, benefits, and administration.

15 (c) Projections specified in ~~subd. 1.~~ par. (am) under the proposed laws.

16 (f) If unemployment insurance program debt is projected at the end of the
17 forecast period, the ~~reasons why it is not~~ methods proposed to liquidate the debt.

18 **SECTION 3.** 16.48 (1) (b) of the statutes is repealed.

19 **SECTION 4.** 16.48 (2) of the statutes is repealed.

20 **SECTION 5.** 16.48 (3) of the statutes is amended to read:

1 16.48 (3) ~~No Biennially, no later than June 15 January 31 of each~~
2 ~~odd-numbered even-numbered year, the secretary of workforce development, under~~
3 ~~the direction of shall submit to the governor, shall submit to each member of the~~
4 ~~legislature an updated speaker of the assembly, the minority leader of the assembly,~~
5 ~~the majority and minority leaders of the senate, and the council on unemployment~~
6 ~~insurance the statement of unemployment insurance financial outlook which shall~~
7 ~~contain the information specified in prepared under sub. (1) (a), together with the~~
8 ~~governor's recommendations and an explanation for such recommendations, and a~~
9 ~~copy of the a report required that summarizes the deliberations of the council and~~
10 ~~the position of the council regarding any proposed change to the unemployment~~
11 ~~insurance laws submitted under sub. (1) (b).~~

12 **SECTION 6.** 16.48 (4) of the statutes is created to read:

13 16.48 (4) The department shall post the most recent version of the statement
14 prepared under sub. (1) and the most recent version of the report prepared under sub.
15 (3) on the department's Internet site.

16 **SECTION 7.** 71.93 (8) (b) 2. of the statutes is amended to read:

17 71.93 (8) (b) 2. The department may enter into agreements described under
18 subd. 1. with the courts, the legislature, authorities, as defined in s. 16.41 (4), and
19 local units of government. The department may not enter into an agreement
20 described under subd. 1. to collect amounts owed under ch. 108.

21 **SECTION 8.** 108.02 (10e) (c) of the statutes is created to read:

22 108.02 (10e) (c) "Departmental error" does not include an error made by an
23 appeal tribunal appointed under s. 108.09 (3).

24 **SECTION 9.** 108.02 (13) (k) of the statutes, as affected by 2019 Wisconsin Act 9,
25 is amended to read:

1 108.02 (13) (k) “~~Employer~~” Except as provided in s. 108.065 (3m), “employer”
2 does not include a county department, an aging unit, or, under s. 46.2785, a private
3 agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve
4 as a fiscal agent under s. ~~46.27 (5) (i)~~, 46.272 (7) (e), or 47.035 as to any individual
5 performing services for a person receiving long-term support services under s.
6 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or
7 personal assistance services under s. 47.02 (6) (c).

8 **SECTION 10.** 108.065 (1e) (intro.) of the statutes is amended to read:

9 108.065 (1e) (intro.) Except as provided in subs. (2) ~~and (3)~~ to (3m), if there is
10 more than one employing unit that has a relationship to an employee, the
11 department shall determine which of the employing units is the employer of the
12 employee by doing the following:

13 **SECTION 11.** 108.065 (3m) of the statutes is created to read:

14 108.065 (3m) A private agency that serves as a fiscal agent or contracts with
15 a fiscal intermediary to serve as a fiscal agent to recipients of services under ch. 46,
16 47, or 51 may elect to be the employer of one or more employees providing those
17 services. As a condition of eligibility for election to be the employer of one or more
18 employees providing those services, the private agency shall notify in writing the
19 recipient of any such services of its election, for purposes of the unemployment
20 insurance law, to be the employer of any worker providing such services to the
21 recipient, and must be treated as the employer under 26 USC 3301 to 3311 for
22 purposes of federal unemployment taxes on the worker’s services.

23 **SECTION 12.** 108.101 (5) of the statutes is created to read:

24 108.101 (5) Notwithstanding sub. (4), a final order or judgment of conviction
25 for a crime entered by a court is binding on the convicted person in an action or

1 proceeding under this chapter that relates to the criminal conviction. A person
2 convicted of a crime is precluded from denying the essential allegations of the
3 criminal offense that is the basis for the conviction in an action or proceeding under
4 this chapter.

5 **SECTION 13.** 108.151 (7) (c) of the statutes is amended to read:

6 108.151 (7) (c) The fund's treasurer shall determine the total amount due from
7 employers electing reimbursement financing under this section that is uncollectible
8 as of June 30 of each year, but not including any amount that the department
9 determined to be uncollectible ~~prior to~~ before January 1, 2004. No amount may be
10 treated as uncollectible under this paragraph unless the department has exhausted
11 all reasonable remedies for collection of the amount, including liquidation of the
12 assurance required under sub. (4). The department shall charge the total amounts
13 so determined to the uncollectible reimbursable benefits account under s. 108.16
14 (6w). Whenever, as of June 30 of any year, ~~this~~ that account has a negative balance
15 of \$5,000 or more, the treasurer shall, except as provided in par. (i), determine the
16 rate of an assessment to be levied under par. (b) for that year, which shall then
17 become payable by all employers that have elected reimbursement financing under
18 this section as of that date.

19 **SECTION 14.** 108.151 (7) (f) of the statutes is amended to read:

20 108.151 (7) (f) If any employer would otherwise be assessed an amount less
21 than \$10 \$20 for a calendar year, the department shall, in lieu of requiring that
22 employer to pay an assessment for that calendar year, apply the amount that the
23 employer would have been required to pay to the other employers on a pro rata basis.

24 **SECTION 15.** 108.151 (7) (i) of the statutes is created to read:

1 108.151 (7) (i) In lieu of or in addition to assessing employers as provided in
2 par. (c), the fund's treasurer may apply amounts set aside in the fund's balancing
3 account under s. 108.155 (2) (a) to amounts determined to be uncollectible under par.
4 (c) by transferring those amounts to the account under s. 108.16 (6w). The fund's
5 treasurer may not act under this paragraph whenever the balance remaining of the
6 amount set aside under s. 108.155 (2) (a) is less than \$1,750,000 and may not act to
7 reduce the amount set aside below that amount.

8 **SECTION 16.** 108.155 (2) (a) of the statutes is amended to read:

9 108.155 (2) (a) On October 2, 2016, the fund's treasurer shall set aside
10 \$2,000,000 in the balancing account for accounting purposes. On an ongoing basis,
11 the fund's treasurer shall tally the amounts allocated to reimbursable employers'
12 accounts under s. 108.04 (13) (d) 4. c. and all amounts transferred to the account
13 under s. 106.16 (6w) as provided in s. 108.151 (7) (i) and shall deduct those amounts
14 from the amount set aside plus any interest calculated thereon.

15 **SECTION 17.** 108.16 (6m) (j) of the statutes is created to read:

16 108.16 (6m) (j) Any amount transferred to the account under sub. (6w) as
17 provided in s. 108.151 (7) (i).

18 **SECTION 18.** 108.16 (6w) of the statutes is amended to read:

19 108.16 (6w) The department shall maintain within the fund an uncollectible
20 reimbursable benefits account to which the department shall credit all amounts
21 received from employers under s. 108.151 (7) and all amounts transferred from the
22 fund's balancing account as provided in s. 108.151 (7) (i).

23 **SECTION 19.** 108.22 (10) of the statutes, as affected by 2019 Wisconsin Act 9,
24 is amended to read:

1 108.22 (10) A private agency that serves as a fiscal agent under s. 46.2785 or
2 contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.272 (7) (e)
3 or 47.035 as to any individual performing services for a person receiving long-term
4 support services under s. 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286,
5 46.495, 51.42, or 51.437 or personal assistance services under s. 47.02 (6) (c) may be
6 found jointly and severally liable for the amounts owed by the person under this
7 chapter, if, at the time the person's quarterly report is due under this chapter, the
8 private agency served as a fiscal agent for the person. The liability of the agency as
9 provided in this subsection survives dissolution, reorganization, bankruptcy,
10 receivership, assignment for the benefit of creditors, judicially confirmed extension
11 or composition, or any analogous situation of the person and shall be set forth in a
12 determination or decision issued under s. 108.10. An appeal or review of a
13 determination under this subsection shall not include an appeal or review of
14 determinations of amounts owed by the person. This subsection does not apply with
15 respect to a private agency that has made an election under s. 108.065 (3m).

16 **SECTION 20. Initial applicability.**

17 (1) The treatment of s. 108.02 (10e) (c) first applies to determinations issued
18 under s. 108.09 on the effective date of this subsection.

19 **SECTION 21. Effective dates.** This act takes effect on the first Sunday after
20 publication, except as follows:

21 (1) The treatment of s. 16.48 (1) (a) (intro.), 1., 2., 3., 4., 5. and 6. and (b), (2),
22 (3), and (4) takes effect on February 1, 2020.

23 (2) The treatment of ss. 108.02 (13) (k) and 108.065 (1e) (intro.) and (3m) takes
24 effect on January 1, 2021.

25 **(END)**

Unemployment Insurance Advisory Council
Tentative Schedule
2019
(Updated 11/07/2019)

January 17, 2019	Scheduled Meeting of UIAC Discuss Public Hearing (Nov. 15, 2018) Comments
February 21, 2019	Scheduled Meeting of UIAC (Cancelled)
March 21, 2019	Scheduled Meeting of UIAC Introduce Department Law Change Proposals
April 18, 2019	Scheduled Meeting of UIAC Discuss Department Proposals
May 22, 2019	Re-Scheduled Meeting of UIAC Approve/Discuss Department Proposals Exchange of Labor & Management Law Change Proposals
June 20, 2019	Scheduled Meeting of UIAC Approve/Discuss Department Proposals Discuss Labor & Management Proposals
July 18, 2019	Scheduled Meeting of UIAC Approve/Discuss Department Proposals Discuss Labor & Management Proposals
August 15, 2019	Scheduled Meeting of UIAC Discussion and Agreement on Law Changes for Agreed Upon Bill (Cancelled)
September 19, 2019	Scheduled Meeting of UIAC Discussion and Agreement on Law Changes for Agreed Upon Bill
October 22, 2019	Re-scheduled Meeting of UIAC Discussion and Agreement on Law Changes for Agreed Upon Bill Review and Approval of LRB Draft of Agreed Items for Agreed Upon Bill
November 7, 2019	Meeting of UIAC Discussion and Agreement on Law Changes for Agreed Upon Bill Review and Approval of LRB Draft of Agreed Items for Agreed Upon Bill
November 21, 2019	Scheduled Meeting of UIAC Review and Approval of LRB Draft of Agreed Upon Bill
December 19, 2019	Tentative Meeting of UIAC – If Needed Final Review and Approval of LRB Draft of Agreed Upon Bill
January 2020	Agreed Upon Bill Sent to the Legislature for Introduction in the Spring 2020 Legislative Session