



Unemployment Insurance Advisory Council

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

MEETING

Date: December 6, 2019
Time: 10:30 a.m. – 11:30 a.m.
Place: Department of Workforce Development
201 E. Washington Avenue
Madison, Wisconsin
GEF-1, Room H306

AGENDA ITEMS AND TENTATIVE SCHEDULE:

1. Call to Order and Introductions
2. Approval of Minutes of the November 21, 2019 Council Meeting
3. Review and Discussion of LRB Drafts of Agreed Upon Bill
4. Agreed Bill Timeline/Future Meeting Dates and Agenda Items
5. 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 the meeting is scheduled to begin 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 F305
Madison, WI

November 21, 2019

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

Members Present: Janell Knutson (Chair), Scott Manley, Mike Gotzler, John Mielke, Dennis Delie, and Terry Hayden. Sally Feistel and Shane Griesbach via teleconference.

Department Staff Present: Mark Reihl, Amy Banicki, Andrew Rubsam, Jim Moe, John Keckhaver (Legislative Liaison), Patrick Lonergan, Tom McHugh, Pam James, Janet Sausen, Robert Usarek, Emily Savard, and Robin Gallagher.

Members of the Public Present: Mike Duchek (Legislative Reference Bureau), BJ Dernbach (office of Representative Warren Petryk), Michael Gillick (Chairperson, Labor & Industry Review Commission), Chris Reader (Wisconsin Manufacturers & Commerce), Victor Forberger (Attorney, Wisconsin UI Clinic), Brian Dake (Wisconsin Independent Businesses, Inc.).

1. Call to Order and Introduction

Ms. Knutson called the Unemployment Insurance Advisory Council meeting to order at 10:04 a.m. under Wisconsin's Open Meetings law. Council members introduced themselves and Ms. Knutson recognized Michael Gillick, Chairperson of the Labor & Industry Review Commission; DWD Legislative Liaison, John Keckhaver; Mike Duchek of the Legislative Reference Bureau (LRB); UI Division Deputy Administrator, Amy Banicki; and BJ Dernbach of Rep. Warren Petryk's Office.

2. Approval of Minutes of the November 7, 2019 Meeting

Motion by Mr. Manley, second by Mr. Hayden, to approve the minutes of the November 7, 2019 meeting without correction. The motion carried unanimously.

3. Department Update

Ms. Knutson stated there is no department update to provide at today's meeting.

4. Brief Report on the Unemployment Insurance Reserve Fund

Ms. Knutson reported the October 31, 2019 Trust Fund ending balance was over \$2 billion, an increase of almost \$234 million when compared to the same time last year. The \$2 billion Trust

Fund balance represents an Average High Cost Multiple (AHCM) of 1.0 which is the measure used by the U.S. Department of Labor for adequate Trust Fund solvency.

5. Review and Discussion of LRB Drafts of Agreed Upon Bill

Ms. Knutson presented the LRB drafts of the proposed language for the agreed bill. Draft LRB-4903/P1 is the statutory language draft for proposals D19-08, D19-09, and D19-21. Draft LRB-4920/P1 is the statutory language draft for proposals D19-01, D19-03, D19-07, D19-19, D19-20, and D19-22.

Mr. Rubsam explained that, as requested and agreed on by the Council, the proposals for the agreed bill were split into two separate bill drafts so that the proposals that require changes to the appropriation statutes and will need to be acted on by the Joint Committee on Finance are contained in a separate, stand-alone bill. Mr. Rubsam noted that, as discussed at prior Council meetings, because the Council approved proposals D19-08 and D19-09, the resulting statutory language for certain appropriations provisions differs slightly from what was previously presented to the Council.

LRB-4903/P1

Mr. Rubsam provided an overview of draft LRB-4903/P1 and summarized that the proposals in the draft relate to:

- Eliminating the "Administrative Account" and clarifying the UI appropriations references in Wis. Stat. ch. 108.
- Recreating a separate, nonlapsible fund for receiving employer interest and penalty monies collected under Wis. Stat. § 108.22(1) and any other amounts the department collects that are not designated for another fund. This law change is intended to provide consistent treatment for the amounts collected by the department and to better ensure that funds paid by employers remain within the UI program.
- Correcting typographical errors, cross references, and obsolete language.
- Amending the law to provide UI benefits to workers who are required to work without pay because the government has not appropriated funds to pay them.

Mr. Rubsam stated the department believes the statutory language in draft LRB-4903/P1 reflects what the Council intended when they approved the proposals contained in the draft.

LRB-4920/P1

Mr. Rubsam provided an overview of LRB-4920/P1 and brought the Councils attention to notes included in the bill draft relating to effective dates and initial applicability for the following provisions:

- Fiscal Agent Election – first takes effect January 1, 2021 to permit the department to implement the proposal properly, which includes providing time to educate employers and fiscal agents on the law change. Additionally, having the change take effect at the

beginning of a quarter, especially the beginning of a calendar year, will help employers plan accordingly.

- Departmental Error – initially applies to determinations issued on the effective date of the bill so the proposal will not affect determinations that the department has previously issued.
- Department Reports to the Legislature – first takes effect on February 1, 2020 so that if the agreed bill is enacted prior to January 2020 the department will not be required to create an additional Financial Outlook report that would be duplicative of the Financial Outlook report that was issued earlier this year.

Ms. Knutson added that once the Council reaches an agreement and approves the statutory language, the department will submit the language to U.S. Department of Labor for conformity review.

Mr. Hayden stated that the Labor members of the Council had reviewed both the LRB drafts and have no concerns with the proposed statutory language. Mr. Manley indicated the Management members would like to discuss in caucus.

Caucus

Motion by Mr. Manley, second by Mr. Delie to convene in closed caucus under Wis. Stat. § 19.85(1)(ee) to deliberate the LRB drafts. The motion carried unanimously, and the Council convened in closed caucus at 10:16 a.m.

The Council reconvened the public meeting at 11:06 a.m. Mr. Manley reported the Council has reached a decision to approve the proposed statutory language in the LRB drafts but with one change. The Council requests that sections 32, 33, and 34 of draft LRB-4903/P1, and the related cross references for the initial applicability of those sections as provided under section 114, be removed from draft LRB-4903/P1 and added into draft LRB-4920/P1.

Motion by Mr. Manley, second by Mr. Hayden to approve the amendments to drafts LRB-4903/P1 and LRB-4920/P1. The motion carried unanimously.

6. Agreed Bill Timeline/Future Meeting Dates

Ms. Knutson stated the next regular Council meeting is scheduled for December 19, 2019; however, Mr. Duchek has indicated he can make the amendments to the draft language and have the revised bill drafts ready for review and approval before then. At the members' request, the department will conduct a poll of Council members to determine dates in early December to hold a meeting via teleconference to vote on the final LRB drafts.

7. Adjourn

Motion by Mr. Manley, second by Mr. Hayden to adjourn. The motion carried unanimously, and the Council adjourned at 11:09 a.m.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4903/P2
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), 108.07 (5) (intro.), 108.07 (5)
12 (a), 108.07 (5) (c), 108.07 (6), 108.07 (7), 108.09 (5) (b), 108.10 (intro.), 108.13 (4)
13 (a) 2., 108.14 (2m), 108.14 (3m), 108.14 (8n) (a), 108.14 (8n) (e), 108.14 (16),
14 108.14 (26), 108.141 (1) (h), 108.141 (3g) (a) 3. b., 108.141 (7) (a), 108.141 (7) (b),
15 108.145, 108.15 (3) (d), 108.151 (2) (d), 108.152 (1) (d), 108.155 (2) (a) and (d),

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

Segregated fund

This 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.

Charging of certain benefits

Under current law, whenever UI benefits are chargeable based on federal employment, DWD is to charge those benefits to the federal government. The 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.

Other changes

The 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:

8 20.445 (1) (wc) *Unemployment administration.* ~~All From the unemployment~~
9 ~~administration fund, all~~ moneys received by the department under s. 108.19 ~~not~~
10 ~~otherwise appropriated under this subsection (1)~~ for the administration of ch. 108.

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

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

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

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

3 20.445 (1) (wh) *Unemployment information technology systems; assessments.*
4 ~~All~~ From the unemployment administration fund, all moneys received from
5 assessments levied under s. 108.19 (1e) (a) ~~and 1997 Wisconsin Act 39, section 164~~
6 ~~(2)~~, for the purpose specified in s. 108.19 (1e) (d). The treasurer of the unemployment
7 reserve fund may transfer moneys from this appropriation account to the
8 appropriation account under par. ~~(gd)~~ (wd).

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

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

11 20.445 (1) (n) *Employment assistance and unemployment insurance*
12 *administration; federal moneys.* All federal moneys received, as authorized by the
13 governor under s. 16.54, for the administration of employment assistance and
14 unemployment insurance programs of the department, for the performance of the
15 department's other functions under subch. I of ch. 106 and ch. 108, and to pay the
16 compensation and expenses of appeal tribunals and of employment councils
17 appointed under s. 108.14, to be used for such purposes, except as provided in s.
18 108.161 (3e), and, from the moneys received by this state under ~~section 903~~ 42 USC
19 1103 (d) ~~of the federal Social Security Act, as amended~~, to transfer to the
20 appropriation account under par. (nb) an amount determined by the treasurer of the
21 unemployment reserve fund not exceeding the lesser of the amount specified in s.
22 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the
23 appropriation account under par. (nd) an amount determined by the treasurer of the
24 unemployment reserve fund not exceeding the lesser of the amount specified in s.
25 108.161 (4) (d) or the amounts in the schedule under par. (nd), to transfer to the

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

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

9 20.445 (1) (nb) *Unemployment administration; information technology*
10 *systems.* From the moneys received from the federal government under ~~section 903~~
11 ~~42 USC 1103~~ (d) of the federal Social Security Act, as amended, as a continuing
12 appropriation, the amounts in the schedule, as authorized by the governor under s.
13 16.54, for the purpose specified in s. 108.19 (1e) (d). All moneys transferred from par.
14 (n) for this purpose shall be credited to this appropriation account. No moneys may
15 be expended from this appropriation unless the treasurer of the unemployment
16 reserve fund determines that such expenditure is currently needed for the purpose
17 specified in s. 108.19 (1e) (d).

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

19 20.445 (1) (nd) *Unemployment administration; apprenticeship and other*
20 *employment services.* From the moneys received from the federal government under
21 ~~section 903~~ ~~42 USC 1103~~ (d) of the federal Social Security Act, as amended, the
22 amounts in the schedule, as authorized by the governor under s. 16.54, to be used for
23 administration by the department of apprenticeship programs under subch. I of ch.
24 106 and for administration and service delivery of employment and workforce
25 information services, including the delivery of reemployment assistance services to

1 unemployment insurance claimants. All moneys transferred from par. (n) for this
2 purpose shall be credited to this appropriation account. No moneys may be expended
3 from this appropriation unless the treasurer of the unemployment reserve fund
4 determines that such expenditure is currently needed for the purposes specified in
5 this paragraph.

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

7 20.445 (1) (ne) *Unemployment insurance administration and bank service*
8 *costs.* From the moneys received by this state under ~~section 903 of the federal Social~~
9 ~~Security Act, as amended~~ 42 USC 1103, all moneys transferred from the
10 appropriation account under par. (n) to be used for the administration of
11 unemployment insurance and for the payment of the cost of banking services
12 incurred by the unemployment reserve fund. No moneys may be expended from this
13 appropriation unless the treasurer of the unemployment reserve fund determines
14 that such expenditure is currently needed for the purpose specified in this
15 paragraph.

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

17 20.445 (1) (u) *Unemployment interest payments and transfers.* From the
18 unemployment interest payment fund, all moneys received from assessments under
19 s. 108.19 (1m) (a) for the purpose of making the payments and transfers authorized
20 under s. 108.19 (1m) (f).

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

22 20.445 (1) (v) *Unemployment program integrity.* From the unemployment
23 program integrity fund, all moneys received from sources identified under s. ~~108.19~~
24 ~~(1s)~~ 108.20 (2) (a) for the purpose of making the payments authorized under s. ~~108.19~~
25 ~~(1s)~~ 108.20 (2) (b).

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

2 25.17 (1) (xe) Unemployment interest payment fund (s. ~~108.19 (1q)~~ 108.20 (3));

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

4 25.17 (1) (xf) Unemployment program integrity fund (s. ~~108.19 (1s)~~ 108.20 (2));

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

6 103.05 (5) (d) The department shall deposit all moneys received under this
7 subsection in the appropriation account under s. 20.445 (1) (~~gd~~) (wd).

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

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

10 108.02 (2) (c) In connection with the production or harvesting of any commodity
11 defined as an agricultural commodity in s. 15 (g) of the federal agricultural marketing
12 act, as amended (~~46 Stat. 1550, s. 3; under 12 USC 1141j~~) or (f), in connection with the
13 ginning of cotton, or in connection with the operation or maintenance of ditches, canals,
14 reservoirs, or waterways, not owned or operated for profit, used exclusively for
15 supplying and storing water for farming purposes.

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

17 108.02 (13) (c) 2. a. Such crew leader holds a valid certificate of registration
18 under ~~the federal farm labor contractor registration act of 1963 29 USC 1801 to 1872;~~
19 or substantially all the members of such crew operate or maintain tractors,
20 mechanized harvesting or cropdusting equipment, or any other mechanized
21 equipment which is provided by such crew leader; and

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

23 108.02 (14) EMPLOYER'S ACCOUNT. "Employer's account" means ~~a~~ an employer's
24 separate account in the fund, ~~reflecting the employer's experience with respect to~~

1 ~~contribution credits and benefit charges under this chapter maintained as required~~
2 ~~under s. 108.16 (2) (a).~~

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

4 108.02 (15) (j) 5. In any quarter in the employ of any organization exempt from
5 federal income tax under ~~section 26 USC 501 (a) of the internal revenue code~~, other
6 than an organization described in ~~section 26 USC 401 (a) or 501 (c) (3) of such code~~,
7 or under ~~section 26 USC 521 of the internal revenue code~~, if the remuneration for
8 such service is less than \$50;

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

10 108.02 (15) (k) 5. With respect to which unemployment insurance is payable
11 ~~under the federal railroad unemployment insurance act (52 Stat. 1094) 45 USC 351~~
12 ~~to 369;~~

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

14 108.02 (17m) INDIAN TRIBE. "Indian tribe" has the meaning given in 25 USC
15 ~~450b 5304~~ (e), and includes any subdivision, subsidiary, or business enterprise that
16 is wholly owned by such an entity.

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

18 108.02 (19) NONPROFIT ORGANIZATIONS. "Nonprofit organization" means an
19 organization described in ~~section 26 USC 501 (c) (3) of the Internal Revenue Code~~
20 that is exempt from federal income tax under ~~section 26 USC 501 (a) of the Internal~~
21 ~~Revenue Code.~~

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

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

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

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

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

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

5 108.04 (12) (b) Any individual who receives, through the department, any other
6 type of unemployment benefit or allowance for a given week is ineligible for benefits
7 for that same week under this chapter, except as specifically required for conformity
8 with ~~the federal trade act of 1974 (P.L. 93-618)~~ 19 USC 2101 to 2497b.

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

10 108.04 (16) (d) 1. The department shall not deny benefits under sub. (7) as a
11 result of the individual's leaving unsuitable work to enter or continue such training,
12 as a result of the individual's leaving work that the individual engaged in on a
13 temporary basis during a break in the training or a delay in the commencement of
14 the training, or because the individual left on-the-job training not later than 30 days
15 after commencing that training because the individual did not meet the
16 requirements of ~~the federal trade act~~ under 19 USC 2296 (c) (1) (B); and

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

18 108.04 (18) (a) The wages paid to an employee who performed services while
19 the employee was an alien shall, if based on such services, be excluded from the
20 employee's base period wages for purposes of sub. (4) (a) and ss. 108.05 (1) and 108.06
21 (1) unless the employee is an alien who was lawfully admitted for permanent
22 residence at the time such services were performed, was lawfully present for the
23 purpose of performing such services, or was permanently residing in the United
24 States under color of law at the time such services were performed, including an alien
25 who was lawfully present in the United States as a result of the application of the

1 provisions of ~~section 212 (d) (5) of the federal immigration and nationality act~~ (8 USC
2 1182 (d) (5)). All claimants shall be uniformly required to provide information as to
3 whether they are citizens and, if they are not, any determination denying benefits
4 under this subsection shall not be made except upon a preponderance of the evidence.

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

6 108.04 **(18)** (b) Any amendment of ~~s. 26 USC 3304 (a) (14) of the federal~~
7 ~~unemployment tax act~~ specifying conditions other than as stated in par. (a) for denial
8 of benefits based on services performed by aliens, or changing the effective date for
9 required implementation of par. (a) or such other conditions, ~~which~~ that is a condition
10 of approval of this chapter for full tax credit against the tax imposed by the federal
11 unemployment tax act, shall be applicable to this subsection.

12 **SECTION 32.** 108.07 (5) (intro.) of the statutes is amended to read:

13 108.07 **(5)** (intro.) Except as provided in sub. (7), whenever benefits ~~which~~
14 that would otherwise be chargeable to the fund's balancing account are paid based
15 on wages paid by an employer that is not subject to the contribution requirements
16 of ss. 108.17 and 108.18, and the benefits are so chargeable under sub. (3) or s.
17 108.04 (1) (f) ~~or~~, (5), or (5g) or 108.14 (8n) (e), or under s. 108.16 (6m) (e) for benefits
18 specified in s. 108.16 (3) (b), the department shall charge the benefits as follows:

19 **SECTION 33.** 108.07 (5) (a) of the statutes is amended to read:

20 108.07 **(5)** (a) If no employer from which the claimant has base period wages
21 is subject to the contribution requirements of ss. 108.17 and 108.18, the benefits shall
22 be ~~charged to the administrative account and paid from the appropriation under s.~~
23 20.445 (1) ~~(gd)~~ (wd).

24 **SECTION 34.** 108.07 (5) (c) of the statutes is amended to read:

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

9 **SECTION 35.** 108.07 (6) of the statutes is amended to read:

10 108.07 (6) The department may initially charge benefits otherwise chargeable
11 ~~to the administrative account payable from the appropriation under s. 20.445 (1)~~
12 (wd) as provided under this section to the fund's balancing account, and periodically
13 reimburse the charges to the balancing account from the ~~administrative account~~
14 appropriation under s. 20.445 (1) (wd).

15 **SECTION 36.** 108.07 (7) of the statutes is amended to read:

16 108.07 (7) Whenever benefits are chargeable under sub. (1) or (2) based on
17 federal employment, the department shall charge the benefits to the federal
18 government, except that, if the federal government refuses to reimburse the benefits
19 to the department, the department shall charge the benefits to the administrative
20 account and pay them from the appropriation under s. 20.445 (1) (wd).

21 **SECTION 37.** 108.09 (5) (b) of the statutes is amended to read:

22 108.09 (5) (b) All testimony at any hearing under this section shall be recorded
23 by electronic means, but need not be transcribed unless either of the parties requests
24 a transcript before expiration of that party's right to further appeal under this
25 section and pays a fee to the commission in advance, the amount of which shall be

1 established by rule of the commission. When the commission provides a transcript
2 to one of the parties upon request, the commission shall also provide a copy of the
3 transcript to all other parties free of charge. The transcript fee collected shall be paid
4 ~~to the administrative account~~ credited to the appropriation account under s. 20.427
5 (1) (g).

6 **SECTION 38.** 108.10 (intro.) of the statutes is amended to read:

7 **108.10 Settlement of issues other than benefit claims.** (intro.) Except as
8 provided in s. 108.245 (3), in connection with any issue arising under this chapter as
9 to the status or liability of an employing unit ~~in this state~~, for which no review is
10 provided under s. 108.09, 108.095, or 108.227 (5) and whether or not a penalty is
11 provided in s. 108.24, the following procedure shall apply:

12 **SECTION 39.** 108.13 (4) (a) 2. of the statutes is amended to read:

13 108.13 (4) (a) 2. "Legal process" has the meaning given under 42 USC ~~662 (e)~~
14 659 (i) (5).

15 **SECTION 40.** 108.14 (2m) of the statutes is amended to read:

16 108.14 (2m) In the discharge of their duties under this chapter an appeal
17 tribunal, commissioner, or other authorized representative of the department or
18 commission may administer oaths to persons appearing before them, take
19 depositions, certify to official acts, and by subpoenas, served in the manner in which
20 circuit court subpoenas are served, compel attendance of witnesses and the
21 production of books, papers, documents, and records necessary or convenient to be
22 used by them in connection with any investigation, hearing, or other proceeding
23 under this chapter. A party's attorney of record may issue a subpoena to compel the
24 attendance of a witness or the production of evidence. A subpoena issued by an
25 attorney must be in substantially the same form as provided in s. 805.07 (4) and must

1 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of
2 issuance, send a copy of the subpoena to the appeal tribunal or other representative
3 of the department responsible for conducting the proceeding. However, in any
4 investigation, hearing, or other proceeding involving the administration of oaths or
5 the use of subpoenas under this subsection due notice shall be given to any interested
6 party involved, who shall be given an opportunity to appear and be heard at any such
7 proceeding and to examine witnesses and otherwise participate therein. Witness
8 fees and travel expenses involved in proceedings under this chapter may be allowed
9 by the appeal tribunal or representative of the department at rates specified by
10 department rules, and shall be paid from the ~~administrative account~~ appropriation
11 under s. 20.445 (1) (n).

12 **SECTION 41.** 108.14 (3m) of the statutes is amended to read:

13 108.14 (3m) In any court action to enforce this chapter the department, the
14 commission, and the state may be represented by any licensed attorney who is an
15 employee of the department or the commission and is designated by either of them
16 for this purpose or at the request of either of them by the department of justice. If
17 the governor designates special counsel to defend, in behalf of the state, the validity
18 of this chapter or of any provision of ~~Title IX of the social security act~~ 42 USC 1101
19 to 1110, the expenses and compensation of the special counsel and of any experts
20 employed by the department in connection with that proceeding may be charged to
21 the ~~administrative account~~ appropriation under s. 20.445 (1) (wd). If the
22 compensation is being determined on a contingent fee basis, the contract is subject
23 to s. 20.9305.

24 **SECTION 42.** 108.14 (7) (c) of the statutes is repealed.

25 **SECTION 43.** 108.14 (8n) (a) of the statutes is amended to read:

1 108.14 **(8n)** (a) The department shall enter into a reciprocal arrangement
2 which is approved by the U.S. secretary of labor pursuant to section under 26 USC
3 3304 (a) (9) (B) ~~of the internal revenue code~~, to provide more equitable benefit
4 coverage for individuals whose recent work has been covered by the unemployment
5 insurance laws of 2 or more jurisdictions.

6 **SECTION 44.** 108.14 (8n) (e) of the statutes is amended to read:

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

21 **SECTION 45.** 108.14 (12) (a) to (d) of the statutes are consolidated, renumbered
22 108.14 (12) (am) and amended to read:

23 108.14 **(12)** (am) Consistently Consistent with the provisions of ~~pars. (8) and~~
24 ~~(9) of section 303 (a) of Title III of the federal social security act, 42 USC 503 (a) (8)~~
25 and (9), the department shall expend all moneys received in the federal

1 administrative financing account from any federal agency under said Title III shall
2 be expended 42 USC ch. 7 subch. III solely for the purposes and in the amounts found
3 necessary by said that agency for the proper and efficient administration of this
4 chapter. (b) ~~Consistently with said provisions of said Title III, any~~ The department
5 shall replace, within a reasonable time, any such moneys, that were received prior
6 to before July 1, 1941, and remaining remained unencumbered on said that date, or
7 that were received on or after said that date, which, because of any action or
8 contingency, have been if the moneys are lost or have been expended for purposes
9 other than, or in amounts in excess of, those found necessary by said the federal
10 agency for the proper administration of this chapter, shall be replaced within a
11 reasonable time. ~~This paragraph is the declared policy of this state, as enunciated~~
12 ~~by the 1941 legislature, and shall be implemented as further provided in this~~
13 ~~subsection.~~ (c) If it is believed that any amount of money thus received has been
14 thus is lost or improperly expended, the department, on its own motion or on notice
15 from said the federal agency, shall promptly investigate and determine the matter
16 and shall, depending on the nature of its determination, take such steps as it may
17 deem considers necessary to protect the interests of the state. (d) If it is finally
18 determined that moneys ~~thus received~~ have been ~~thus~~ lost or improperly expended,
19 ~~then~~ the department shall either make the necessary replacement from ~~those~~
20 ~~moneys in the administrative account specified in s. 108.20 (2m)~~ the appropriation
21 under s. 20.445 (1) (wd) or shall submit, at the next budget hearings conducted by
22 the governor and at the budget hearings conducted by the next legislature convened
23 in regular session, a request that the necessary replacement be made by an
24 appropriation from the general fund.

1 **SECTION 46.** 108.14 (12) (e) of the statutes is renumbered 108.14 (12) (bm) and
2 amended to read:

3 108.14 **(12)** (bm) This subsection shall not be construed to relieve this state of
4 any obligation existing ~~prior to its enactment~~ before July 1, 1941, with respect to
5 moneys received ~~prior to~~ before July 1, 1941, ~~pursuant to said Title III~~ under 42 USC
6 ch. 7 subch. III.

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

8 108.14 **(16)** The department shall have duplicated or printed, ~~and shall~~
9 ~~distribute without charge, such employment security~~ any reports, studies and,
10 forms, records, decisions, regulations, rules, or other materials, including the text of
11 this chapter ~~and, the handbook under sub. (23), and other~~ instructional or
12 explanatory pamphlets for employers or workers, as that it deems necessary for
13 public information or for the proper administration of this chapter; ~~but the.~~ The
14 department may collect a reasonable charge, which shall be credited to the
15 administrative appropriation account under s. 20.445 (1) (wd), for any such item the
16 cost of which is not fully covered by federal administrative grants.

17 **SECTION 48.** 108.14 (18) of the statutes is renumbered 108.19 (1e) (e) and
18 amended to read:

19 108.19 **(1e)** (e) No later than the end of the month following each quarter in
20 which the department expends moneys derived from assessments levied under ~~s.~~
21 ~~108.19 (1e)~~ this subsection, the department shall submit a report to the council on
22 unemployment insurance describing the use of the moneys expended and the status
23 at the end of the quarter of any project for which moneys were expended.

24 **SECTION 49.** 108.14 (23) (d) of the statutes is repealed.

25 **SECTION 50.** 108.14 (26) of the statutes is amended to read:

1 108.14 **(26)** The department shall prescribe by rule a standard affidavit form
2 that may be used by parties to appeals under ss. 108.09, 108.095, and 108.10 and
3 shall make the form available to employers and claimants. The form shall be
4 sufficient to qualify as admissible evidence in a hearing under this chapter if the
5 authentication is sufficient and the information set forth by the affiant is admissible,
6 but its use by a party does not eliminate the right of an opposing party to cross
7 examine the affiant concerning the facts asserted in the affidavit.

8 **SECTION 51.** 108.141 (1) (h) of the statutes is amended to read:

9 108.141 **(1)** (h) “State law” means the unemployment insurance law of any
10 state, that has been approved by the U.S. secretary of labor under section 26 USC
11 3304 of the internal revenue code.

12 **SECTION 52.** 108.141 (3g) (a) 3. b. of the statutes is amended to read:

13 108.141 **(3g)** (a) 3. b. The gross average weekly remuneration for the work
14 exceeds the claimant’s weekly benefit rate plus any supplemental unemployment
15 benefits, as defined in section 26 USC 501 (c) (17) (D) of the internal revenue code,
16 then payable to the claimant;

17 **SECTION 53.** 108.141 (7) (a) of the statutes is amended to read:

18 108.141 **(7)** (a) The department shall charge the state’s share of each week of
19 extended benefits to each employer’s account in proportion to the employer’s share
20 of the total wages of the employee receiving the benefits in the employee’s base
21 period, except that if the employer is subject to the contribution requirements of ss.
22 108.17 and 108.18 the department shall charge the share of extended benefits to
23 which s. 108.04 (1) (f), (5), (5g), (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a)
24 ~~or (b) to (c)~~, 108.07 (3), (3r), or (5) (b), or 108.133 (3) (f) applies to the fund’s balancing
25 account.

1 **SECTION 54.** 108.141 (7) (b) of the statutes is amended to read:

2 108.141 (7) (b) The department shall charge the full amount of extended
3 benefits based on employment for a government unit to the account of the
4 government unit, except that if s. 108.04 (5), (5g), or (7) applies and the government
5 unit has elected contribution financing the department shall charge one-half of the
6 government unit's share of the benefits to the fund's balancing account.

7 **SECTION 55.** 108.145 of the statutes is amended to read:

8 **108.145 Disaster unemployment assistance.** The department shall
9 administer under s. 108.14 (9m) the distribution of disaster unemployment
10 assistance to workers in this state who are not eligible for benefits whenever such
11 assistance is made available by the president of the United States under ~~26~~ 42 USC
12 5177 (a). In determining eligibility for assistance and the amount of assistance
13 payable to any worker who was totally self-employed during the first 4 of the last 5
14 most recently completed quarters preceding the date on which the worker claims
15 assistance, the department shall not reduce the assistance otherwise payable to the
16 worker because the worker receives one or more payments under the social security
17 act (~~42 USC 301 et seq.~~) ch. 7, for the same week that the worker qualifies for such
18 assistance.

19 **SECTION 56.** 108.15 (3) (d) of the statutes is amended to read:

20 108.15 (3) (d) If a government unit elects contribution financing for any
21 calendar year after the first calendar year it becomes newly subject to this chapter,
22 it shall be liable to reimburse the fund for any benefits based on prior employment.
23 If a government unit terminates its election of contribution financing, ss. 108.17 and
24 108.18 shall apply to employment in the prior calendar year, but after all benefits
25 based on such prior employment have been charged to its contribution account any

1 balance remaining in such account shall be transferred to the fund's balancing
2 account.

3 **SECTION 57.** 108.151 (2) (d) of the statutes is amended to read:

4 108.151 (2) (d) Sections 108.17 and 108.18 shall apply to all prior employment,
5 but after all benefits based on prior employment have been charged to any account
6 it has had under s. 108.16 (2) any balance remaining therein shall be transferred to
7 the fund's balancing account as if s. 108.16 (6) (c) or (6m) (d) applied.

8 **SECTION 58.** 108.152 (1) (d) of the statutes is amended to read:

9 108.152 (1) (d) If the Indian tribe or tribal unit is an employer ~~prior to~~ before
10 the effective date of an election, ss. 108.17 and 108.18 shall apply to all employment
11 ~~prior to~~ before the effective date of the election, but after all benefits based on prior
12 employment have been charged to any account that it has had under s. 108.16 (2),
13 the department shall transfer any positive balance or charge any negative balance
14 remaining therein to the fund's balancing account as if s. 108.16 (6) (c) and (6m) (d)
15 applied.

16 **SECTION 59.** 108.155 (2) (a) and (d) of the statutes are amended to read:

17 108.155 (2) (a) On October 2, 2016, the fund's treasurer shall set aside
18 \$2,000,000 in the fund's balancing account for accounting purposes. On an ongoing
19 basis, the fund's treasurer shall tally the amounts allocated to reimbursable
20 employers' accounts under s. 108.04 (13) (d) 4. c. and deduct those amounts from the
21 amount set aside plus any interest calculated thereon.

22 (d) If the department assesses reimbursable employers under par. (c), the
23 department shall determine the amount of assessments to be levied as provided in
24 sub. (3), and the fund's treasurer shall notify reimbursable employers that the
25 assessment will be imposed. Except as provided in sub. (3) (c), the assessment shall

1 be payable by each reimbursable employer that is subject to this chapter as of the
2 date the assessment is imposed. Assessments imposed under this section shall be
3 credited to the fund's balancing account.

4 **SECTION 60.** 108.16 (5) (c) of the statutes is amended to read:

5 108.16 (5) (c) While the state has an account in the "Unemployment Trust
6 Fund", public deposit insurance charges on the fund's balances held in banks,
7 savings banks, savings and loan associations, and credit unions in this state, the
8 premiums on surety bonds required of the fund's treasurer under this section, and
9 any other expense of administration otherwise payable from the fund's interest
10 earnings, shall be paid from the ~~administrative account~~ appropriation under s.
11 20.445 (1) (n) or (ne).

12 **SECTION 61.** 108.16 (6) (k) of the statutes is amended to read:

13 108.16 (6) (k) All payments to the fund from the ~~administrative account as~~
14 ~~authorized under s. 108.20 (2m)~~ appropriation under s. 20.445 (1) (wd).

15 **SECTION 62.** 108.16 (6) (m) of the statutes is amended to read:

16 108.16 (6) (m) Any amounts transferred to the balancing account from the
17 unemployment interest payment fund under s. 108.19 (1m) (f).

18 **SECTION 63.** 108.16 (6m) (a) of the statutes is amended to read:

19 108.16 (6m) (a) The benefits thus chargeable under sub. (7) (a) or (b) or s.
20 108.04 (1) (f), (5), (5g), (7) ~~(h)~~ (u), (7m), (8) (a) ~~or (b)~~ to (c), (13) (c) or (d) or (16) (e),
21 108.07 (3), (3r), (5) (b), (5m), or (6), 108.133 (3) (f), 108.14 (8n) (e), 108.141, 108.15,
22 108.151, or 108.152 ~~or sub. (6) (e) or (7) (a) and (b).~~

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

24 108.16 (6x) The department shall charge to the uncollectible reimbursable
25 benefits account the amount of any benefits paid from the fund's balancing account

1 that are reimbursable under s. 108.151 but for which the department does not receive
2 reimbursement after the department exhausts all reasonable remedies for collection
3 of the amount.

4 **SECTION 65.** 108.16 (8) (f) of the statutes is amended to read:

5 108.16 (8) (f) The successor shall take over and continue the transferor's
6 account, including its positive or negative balance and all other aspects of its
7 experience under this chapter in proportion to the payroll assignable to the
8 transferred business and the liability of the successor shall be proportioned to the
9 extent of the transferred business. The transferor and the successor shall be jointly
10 and severally liable for any amounts owed by the transferor ~~to the fund and to the~~
11 ~~administrative account under this chapter~~ at the time of the transfer, but a successor
12 under par. (c) is not liable for the debts of the transferor except in the case of fraud
13 or malfeasance.

14 **SECTION 66.** 108.16 (9) (a) of the statutes is amended to read:

15 108.16 (9) (a) Consistently with section 26 USC 3305 of the internal revenue
16 code, relating to federal instrumentalities ~~which~~ that are neither wholly nor
17 partially owned by the United States nor otherwise specifically exempt from the tax
18 imposed by section under 26 USC 3301 of the internal revenue code:

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

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

1 **SECTION 67.** 108.161 (title) of the statutes is amended to read:

2 **108.161 (title) Federal administrative financing account; Reed Act**
3 **distributions.**

4 **SECTION 68.** 108.161 (1) and (1m) of the statutes are consolidated, renumbered
5 108.161 (1) and amended to read:

6 108.161 (1) The fund's treasurer shall maintain within the fund an
7 employment security "federal administrative financing account", and shall credit
8 thereto to that account all amounts credited to the fund pursuant to the federal
9 employment security administrative financing act (of 1954) and section 903 of the
10 federal social security act, as amended. ~~(1m)~~ The treasurer of the fund shall also
11 credit to said account under 42 USC 1101 to 1103 and all federal moneys credited to
12 the fund pursuant to under sub. (8).

13 **SECTION 69.** 108.161 (2) of the statutes is amended to read:

14 108.161 (2) The requirements of ~~said section 903~~ 42 USC 1103 shall control any
15 appropriation, withdrawal, and use of any moneys in said the federal administrative
16 financing account.

17 **SECTION 70.** 108.161 (3) of the statutes is amended to read:

18 108.161 (3) Consistently Consistent with this chapter and ~~said section 903,~~
19 ~~such~~ 42 USC 1103, moneys in the federal administrative financing account shall be
20 used solely for benefits or employment security administration by the department,
21 including unemployment insurance, employment service, apprenticeship programs,
22 and related statistical operations.

23 **SECTION 71.** 108.161 (3e) of the statutes is amended to read:

24 108.161 (3e) Notwithstanding sub. (3), any moneys allocated under ~~section 903~~
25 ~~of the federal Social Security Act, as amended,~~ 42 USC 1103 for federal fiscal years

1 2000 and 2001 and the first \$2,389,107 of any distribution received by this state
2 under ~~section 903 of that act~~ 42 USC 1103 in federal fiscal year 2002 shall be used
3 solely for unemployment insurance administration.

4 **SECTION 72.** 108.161 (4) of the statutes is amended to read:

5 108.161 (4) ~~Such moneys~~ Moneys in the federal administrative financing
6 account shall be encumbered and spent for employment security administrative
7 purposes only pursuant to, and after the effective date of, a specific legislative
8 appropriation enactment that does all of the following:

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

11 (b) ~~Directing Directs~~ the fund's treasurer to transfer the appropriated amounts
12 to ~~the administrative account~~ the appropriation account under s. 20.445 (1) (n) only
13 as and to the extent that they are currently needed for such expenditures, and
14 ~~directing directs~~ that there shall be restored to the federal administrative financing
15 ~~account created by sub. (1)~~ any amount thus transferred ~~which~~ that has ceased to be
16 needed or available for such expenditures.

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

23 (d) ~~Limiting Limits~~ the total amount ~~which~~ that may be obligated during any
24 fiscal year to the aggregate of all amounts credited under sub. (1), including amounts

1 credited pursuant to under sub. (8), reduced at the time of any obligation by the sum
2 of the moneys obligated and charged against any of the amounts credited.

3 **SECTION 73.** 108.161 (5) and (6) of the statutes are consolidated, renumbered
4 108.161 (5m) and amended to read:

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

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

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

18 (c) Certify the relevant facts whenever necessary hereunder.

19 **SECTION 74.** 108.161 (7) of the statutes is amended to read:

20 108.161 (7) If any moneys appropriated hereunder under this section are used
21 to buy and hold suitable land, ~~with a view to the future construction of an~~ and to build
22 a suitable employment security building thereon, and if such land is later sold or
23 transferred to other use, the proceeds of such sale (, or the value of such land when
24 transferred), shall be credited to the federal administrative financing account
25 ~~created by sub. (1)~~ except as otherwise provided in ss. 13.48 (14) and 16.848.

1 **SECTION 75.** 108.161 (8) of the statutes is amended to read:

2 108.161 (8) If any sums are appropriated and spent hereunder under this
3 section to buy land and to build a suitable employment security building thereon, or
4 to purchase information technology hardware and software, ~~then~~ any federal
5 moneys thereafter credited to the fund or paid to the department by way of gradual
6 reimbursement of such employment security capital expenditures, or in lieu of the
7 estimated periodic amounts ~~which~~ that would otherwise (, in the absence of such
8 expenditures), be federally granted for the rental of substantially equivalent
9 quarters, shall be credited to the federal administrative financing account ~~created~~
10 ~~by sub. (1)~~, consistently with any federal requirements applicable to the handling
11 and crediting of such moneys.

12 **SECTION 76.** 108.161 (9) of the statutes is amended to read:

13 108.161 (9) Any land and building or office quarters acquired under this section
14 shall continue to be used for employment security purposes. Realty or quarters may
15 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)
16 or 16.848 (1) and may not be sold or transferred without the governor's approval. The
17 proceeds from the sale, or the value of realty or quarters upon transfer, shall be
18 credited to the federal administrative financing account ~~established in sub. (1)~~ or
19 credited to the ~~fund established in s. 108.20~~ appropriate appropriation account
20 under s. 20.445, or both as determined by the department in accordance with federal
21 requirements. Equivalent substitute rent-free quarters may be provided, as
22 federally approved. Amounts credited under this subsection shall be used solely to
23 finance employment security quarters according to federal requirements.

24 **SECTION 77.** 108.162 (7) of the statutes is amended to read:

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

4 **SECTION 78.** 108.17 (2m) of the statutes is amended to read:

5 108.17 (2m) When a written statement of account is issued to an employer by
6 the department, ~~showing as duly credited~~ that shows a specified amount received
7 from the employer under this chapter as having been credited, no other form of state
8 receipt ~~therefor~~ is required.

9 **SECTION 79.** 108.17 (3) of the statutes is amended to read:

10 108.17 (3) If an employing unit ~~makes application~~ applies to the department
11 to adjust an alleged overpayment by the employer of contributions or interest under
12 this chapter, and files such an application within 3 years after the close of the
13 calendar year in which such payment was made, the department shall ~~make a~~
14 ~~determination~~ determine under s. 108.10 ~~as to the existence and whether and to~~
15 ~~what~~ extent of any such an overpayment, and said section shall apply to such
16 ~~determination~~ exists. Except as provided in sub. (3m), the department shall allow
17 an employer a credit for any amount determined under s. 108.10 to have been
18 erroneously paid by the employer, without interest, against its future contribution
19 payments; or, if the department finds it impracticable to allow the employer such a
20 credit, it shall refund ~~such~~ the overpayment to the employer, without interest, from
21 the fund or the ~~administrative account, as the case may be~~ appropriate appropriation
22 under s. 20.445.

23 **SECTION 80.** 108.17 (3m) of the statutes is amended to read:

24 108.17 (3m) If an appeal tribunal or the commission issues a decision under
25 s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is

1 determined that an amount has been erroneously paid by an employer, the
2 department shall, from the ~~administrative account~~ appropriation under s. 20.445 (1)
3 (wd), credit the employer with interest at the rate of 0.75 percent per month or
4 fraction thereof on the amount of the erroneous payment. Interest shall accrue from
5 the month which the erroneous payment was made until the month in which it is
6 either used as a credit against future contributions or refunded to the employer.

7 **SECTION 81.** 108.18 (3) (c) of the statutes is amended to read:

8 108.18 (3) (c) Permitting the employer to pay such lower rate is consistent with
9 the relevant conditions then applicable to additional credit allowance for such year
10 under ~~section 26 USC 3303 (a) of the federal unemployment tax act~~, any other
11 provision to the contrary notwithstanding.

12 **SECTION 82.** 108.18 (7) (a) 1. of the statutes is amended to read:

13 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make
14 payments to the fund during the month of November in excess of those required by
15 this section and s. 108.19 ~~(1), (1e), and (1f)~~. Each payment shall be credited to the
16 employer's account for the purpose of computing the employer's reserve percentage
17 as of the immediately preceding computation date.

18 **SECTION 83.** 108.18 (7) (h) of the statutes is amended to read:

19 108.18 (7) (h) The department shall establish contributions, other than ~~those~~
20 contributions required by this section and assessments required under s. 108.19 (1),
21 ~~(1e), and (1f)~~ and contributions other than those submitted during the month of
22 November or authorized under par. (f) or (i) 2., as a credit, without interest, against
23 future contributions payable by the employer or shall refund the contributions at the
24 employer's option.

25 **SECTION 84.** 108.19 (title) of the statutes is repealed and recreated to read:

1 **108.19** (title) **Special assessments.**

2 **SECTION 85.** 108.19 (1) of the statutes is renumbered 108.19 (1) (a) and
3 amended to read:

4 108.19 (1) (a) Each employer subject to this chapter shall regularly ~~contribute~~
5 ~~to the administrative account at the rate of two-tenths of one~~ pay an assessment
6 equal to 0.2 percent per year on its payroll, except that the department may prescribe
7 at the close of any fiscal year such lower rates ~~of contribution~~ under this section
8 subsection, to apply to classes of employers throughout the ensuing fiscal year, as will
9 in the department's judgment adequately finance the administration of this chapter,
10 and as will in the department's judgment fairly represent the relative cost of the
11 services rendered by the department to each such class.

12 **SECTION 86.** 108.19 (1) (d) of the statutes is created to read:

13 108.19 (1) (d) Assessments under this subsection shall be credited to the
14 appropriation account under s. 20.445 (1) (wc).

15 **SECTION 87.** 108.19 (1e) (a) of the statutes is amended to read:

16 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an
17 employer that finances benefits by reimbursement in lieu of contributions under s.
18 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
19 under s. 108.18 and this section, pay an assessment ~~to the administrative account~~
20 for each year ~~prior to~~ before the year 2010 equal to the lesser of 0.01 percent of its
21 payroll for that year or the solvency contribution that would otherwise be payable
22 by the employer under s. 108.18 (9) for that year.

23 **SECTION 88.** 108.19 (1e) (cm) of the statutes is created to read:

24 108.19 (1e) (cm) Assessments under this subsection shall be credited to the
25 appropriation under s. 20.445 (1) (wh).

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

2 108.19 (1e) (d) The department may expend the moneys received from
3 assessments levied under this subsection in the amounts authorized under s. 20.445
4 (1) ~~(gh)~~ (wh) for the renovation and modernization of unemployment insurance
5 information technology systems, specifically including development and
6 implementation of a new system and reengineering of automated processes and
7 manual business functions.

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

9 108.19 (1f) (a) Except as provided in par. (b), each employer, other than an
10 employer that finances benefits by reimbursement in lieu of contributions under s.
11 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
12 under s. 108.18 and this section, pay an assessment for each year equal to the lesser
13 of 0.01 percent of its payroll for that year or the solvency contribution that would
14 otherwise be payable by the employer under s. 108.18 (9) for that year.

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

17 **SECTION 91.** 108.19 (1f) (c) of the statutes is amended to read:

18 108.19 (1f) (c) Notwithstanding par. (a), the department may, if it finds that the
19 full amount of the levy is not required to effect the purposes specified in ~~sub. (1s)~~ s.
20 108.20 (2) (b) for any year, prescribe a reduced levy for that year and in such case shall
21 publish in the notice under par. (b) the rate of the reduced levy.

22 **SECTION 92.** 108.19 (1m) of the statutes is renumbered 108.19 (1m) (a) and
23 amended to read:

24 108.19 (1m) (a) Each employer subject to this chapter as of the date a rate is
25 established under this subsection shall pay an assessment ~~to the unemployment~~

1 ~~interest payment fund~~ at a rate established by the department sufficient to pay
2 interest due on advances from the federal unemployment account under ~~Title XII of~~
3 ~~the federal social security act,~~ 42 USC 1321 to 1324. The rate established by the
4 department for employers who finance benefits under s. 108.15 (2), 108.151 (2), or
5 108.152 (1) shall be 75 percent of the rate established for other employers. The
6 amount of any employer's assessment shall be the product of the rate established for
7 that employer multiplied by the employer's payroll of the previous calendar year as
8 taken from quarterly employment and wage reports filed by the employer under s.
9 108.205 (1) or, in the absence of the filing of such reports, estimates made by the
10 department.

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

13 (f) The department shall use amounts collected from employers under this
14 subsection exceed the amounts needed to pay interest due on advances from the
15 federal unemployment account under 42 USC 1321 to 1324. If the amounts collected
16 exceed the amounts needed to pay that interest for a given year, the department shall
17 use ~~any~~ the excess to pay interest owed in subsequent years on advances from the
18 federal unemployment account. If the department determines that additional
19 interest obligations are unlikely, the department shall transfer the excess to the
20 fund's balancing account ~~of the fund,~~ the unemployment program integrity fund, or
21 both in amounts determined by the department.

22 **SECTION 93.** 108.19 (1m) (e) of the statutes is created to read:

23 108.19 (1m) (e) Assessments under this subsection shall be deposited in the
24 unemployment interest payment fund.

1 **SECTION 94.** 108.19 (1n) of the statutes is renumbered 108.19 (1m) (b) and
2 amended to read:

3 108.19 **(1m)** (b) The department shall publish as a class 1 notice under ch. 985
4 any rate established under ~~sub. (1m) par. (a)~~ within 10 days of after the date that the
5 rate is established.

6 **SECTION 95.** 108.19 (1p) of the statutes is renumbered 108.19 (1m) (c) and
7 amended to read:

8 108.19 **(1m)** (c) Notwithstanding ~~sub. (1m) par. (a)~~, an employer having a
9 payroll of \$25,000 or less for the preceding calendar year is exempt from any
10 assessment under ~~sub. (1m) this subsection~~.

11 **SECTION 96.** 108.19 (1q) of the statutes is renumbered 108.20 (3) and amended
12 to read:

13 108.20 **(3)** UNEMPLOYMENT INTEREST PAYMENT FUND. There is created a separate,
14 nonlapsible trust fund designated as the unemployment interest payment fund
15 consisting of all amounts collected under ~~sub. s. 108.19~~ (1m) (a) and all interest and
16 penalties on those amounts collected under s. 108.22.

17 **SECTION 97.** 108.19 (1s) of the statutes is renumbered 108.20 (2), and 108.20
18 (2) (a) 3., as renumbered, is amended to read:

19 108.20 **(2)** (a) 3. Amounts transferred under ~~sub. (1m) s. 108.19 (1m) (f)~~.

20 **SECTION 98.** 108.19 (2) of the statutes is renumbered 108.19 (1) (b) and
21 amended to read:

22 108.19 **(1)** (b) If the department finds, at any time within a fiscal year for which
23 it has prescribed lower ~~contribution~~ rates to the ~~administrative account~~ than the
24 maximum rate permitted under ~~sub. (1) par. (a)~~, that such lower rates will not
25 adequately finance the administration of this chapter or are excessive for that

1 purpose, the department may by general rule prescribe a new schedule of rates in no
2 case exceeding the specified maximum to apply under this section subsection for the
3 balance of the fiscal year.

4 **SECTION 99.** 108.19 (2m) of the statutes is renumbered 108.19 (1) (c) and
5 amended to read:

6 108.19 (1) (c) Within the limit specified by ~~sub. (1)~~ under par. (a), the
7 department may by rule prescribe at any time as to any period any such rate or rates
8 or schedule as it deems necessary and proper hereunder under this subsection.
9 Unless thus prescribed, no such rate or rates or schedule shall apply under ~~sub. (1)~~
10 ~~or (2)~~ par. (a) or (b).

11 **SECTION 100.** 108.19 (3) of the statutes is repealed.

12 **SECTION 101.** 108.19 (4) of the statutes is renumbered 108.18 (1) (c) and
13 amended to read:

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

1 of that part of an employer's contributions to the appropriation under s. 20.445 (1)
2 (wd).

3 **SECTION 102.** 108.20 of the statutes is repealed and recreated to read:

4 **108.20 Segregated funds. (1)** UNEMPLOYMENT ADMINISTRATION FUND. There
5 is created a separate, nonlapsible trust fund designated as the unemployment
6 administration fund consisting of moneys credited to the appropriation accounts
7 under s. 20.445 (1) (wc), (wd), and (wh).

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

9 **SECTION 103.** 108.22 (1) (am) of the statutes is amended to read:

10 108.22 **(1)** (am) The interest, penalties, and tardy filing fees levied under pars.
11 (a), (ac), (ad), and (af) shall be paid to the department and credited to the
12 ~~administrative account~~ appropriation under s. 20.445 (1) (wd).

13 **SECTION 104.** 108.22 (1m) of the statutes is amended to read:

14 108.22 **(1m)** If any person owes any contributions, reimbursements or
15 assessments under s. 108.15, 108.151, ~~108.152~~, 108.155, or 108.19 ~~(1m)~~, benefit
16 overpayments, interest, fees, payments for forfeitures, other penalties, or any other
17 amount to the department under this chapter and fails to pay the amount owed, the
18 department has a perfected lien upon the right, title, and interest in all of the
19 person's real and personal property located in this state in the amount finally
20 determined to be owed, plus costs. Except where creation of a lien is barred or stayed
21 by bankruptcy or other insolvency law, the lien is effective upon the earlier of the date
22 on which the amount is first due or the date on which the department issues a
23 determination of the amount owed under this chapter and shall continue until the
24 amount owed, plus costs and interest to the date of payment, is paid, except as
25 provided in sub. (8) (d). If a lien is initially barred or stayed by bankruptcy or other

1 insolvency law, it shall become effective immediately upon expiration or removal of
2 such bar or stay. The perfected lien does not give the department priority over
3 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges
4 whose interests have been recorded before the department's lien is recorded.

5 **SECTION 105.** 108.22 (8e) of the statutes is amended to read:

6 108.22 (8e) If the department determines a payment has been made to an
7 unintended recipient erroneously without fault on the part of the intended payee or
8 payee's authorized agent, the department may issue the correct payment to the
9 intended payee if necessary, and may recover the amount of the erroneous payment
10 from the recipient under this section or s. 108.225 or 108.245. Any amount so
11 recovered shall be credited to the fund's balancing account.

12 **SECTION 106.** 108.223 (2) (b) of the statutes is amended to read:

13 108.223 (2) (b) The department shall enter into agreements with financial
14 institutions doing business in this state to operate the financial record matching
15 program under this section. An agreement shall require the financial institution to
16 participate in the financial record matching program by electing either the financial
17 institution matching option under sub. (3) or the state matching option under sub.
18 (4). The financial institution and the department may by mutual agreement ~~make~~
19 ~~changes to~~ amend the agreement. A financial institution that wishes to choose a
20 different matching option shall provide the department with at least 60 days' notice.
21 The department shall furnish the financial institution with a signed copy of the
22 agreement.

23 **SECTION 107.** 108.23 of the statutes is amended to read:

24 **108.23 Preference of required payments.** In the event of an employer's
25 dissolution, reorganization, bankruptcy, receivership, assignment for benefit of

1 creditors, judicially confirmed extension proposal or composition, or any analogous
2 situation including the administration of estates in circuit courts, the payments
3 required of the employer under this chapter shall have preference over all claims of
4 general creditors and shall be paid next after the payment of preferred claims for
5 wages. If the employer is indebted to the federal government for taxes due under the
6 federal unemployment tax act and a claim for the taxes has been duly filed, the
7 amount of contributions which should be paid to allow the employer the maximum
8 offset against the taxes shall have preference over preferred claims for wages and
9 shall be on a par with debts due the United States, if by establishing the preference
10 the offset against the federal tax can be secured under s. 26 USC 3302 (a) (3) of the
11 ~~federal unemployment tax act.~~

12 **SECTION 108.** 108.24 (3) (a) 3. a. of the statutes is amended to read:

13 108.24 (3) (a) 3. a. Refrain from claiming or accepting benefits, participating
14 in an audit or investigation by the department, or testifying in a hearing held under
15 s. 108.09, 108.095, or 108.10.

16 **SECTION 109.** 108.24 (3) (a) 4. of the statutes is amended to read:

17 108.24 (3) (a) 4. Discriminates or retaliates against an individual because the
18 individual claims benefits, participates in an audit or investigation by the
19 department under this chapter, testifies in a hearing under s. 108.09, 108.095, or
20 108.10, or exercises any other right under this chapter.

21 **SECTION 110. Fiscal changes.**

22 (1) The unencumbered balance in the appropriation account under s. 20.445 (1)
23 (gg), 2017 stats., immediately before the effective date of the repeal of s. 20.445 (1)
24 (gg), 2017 stats., and the unencumbered balance in the appropriation account under
25 s. 20.445 (1) (gm), 2017 stats., immediately before the effective date of the repeal of

1 s. 20.445 (1) (gm), 2017 stats., are transferred to the appropriation account under s.
2 20.445 (1) (wd), as affected by this act.

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

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

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

9 **SECTION 111. Initial applicability.**

10 (1) The treatment of ss. 20.445 (1) (gd) (with respect to the payment of benefits
11 charged under s. 108.07 (7)) and 108.07 (7) first applies to claims filed on the effective
12 date of this subsection.

13 **SECTION 112. Effective date.**

14 (1) This act takes effect on the first Sunday after publication.

15 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4920/P2
MED&MIM:kjf/ahe/cjs

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), 108.05 (3) (a), 108.05 (3) (c) (intro.), 108.065 (1e) (intro.),
4 108.151 (7) (c), 108.151 (7) (f), 108.155 (2) (a), 108.16 (6w) and 108.22 (10); and
5 **to create** 16.48 (4), 108.02 (10e) (c), 108.05 (3) (cm), 108.065 (3m), 108.101 (5),
6 108.151 (7) (i) and 108.16 (6m) (j) of the statutes; **relating to:** various changes
7 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.

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.

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.

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

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

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

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

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

16 16.48 (4) The department shall post the most recent version of the statement
17 prepared under sub. (1) and the most recent version of the report prepared under sub.
18 (3) on the department's Internet site.

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

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

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

1 108.02 (10e) (c) “Departmental error” does not include an error made by an
2 appeal tribunal appointed under s. 108.09 (3).

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

5 108.02 (13) (k) “Employer” Except as provided in s. 108.065 (3m), “employer”
6 does not include a county department, an aging unit, or, under s. 46.2785, a private
7 agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve
8 as a fiscal agent under s. 46.27 (5) (i), 46.272 (7) (e), or 47.035 as to any individual
9 performing services for a person receiving long-term support services under s.
10 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or
11 personal assistance services under s. 47.02 (6) (c).

12 **SECTION 10.** 108.05 (3) (a) of the statutes is amended to read:

13 108.05 (3) (a) Except as provided in pars. (c), (cm), (d) and (dm) and s. 108.062,
14 if an eligible employee earns wages in a given week, the first \$30 of the wages shall
15 be disregarded and the employee’s applicable weekly benefit payment shall be
16 reduced by 67 percent of the remaining amount, except that no such employee is
17 eligible for benefits if the employee’s benefit payment would be less than \$5 for any
18 week. For purposes of this paragraph, “wages” includes any salary reduction
19 amounts earned that are not wages and that are deducted from the salary of a
20 claimant by an employer pursuant to a salary reduction agreement under a cafeteria
21 plan, within the meaning of 26 USC 125, and any amount that a claimant would have
22 earned in available work under s. 108.04 (1) (a) which is treated as wages under s.
23 108.04 (1) (bm), but excludes any amount that a claimant earns for services
24 performed as a volunteer fire fighter, volunteer emergency medical services
25 practitioner, or volunteer emergency medical responder. In applying this paragraph,

1 the department shall disregard discrepancies of less than \$2 between wages reported
2 by employees and employers.

3 **SECTION 11.** 108.05 (3) (c) (intro.) of the statutes is amended to read:

4 108.05 (3) (c) (intro.) Except as provided in par. (cm) and when otherwise
5 authorized in an approved work-share program under s. 108.062, a claimant is
6 ineligible to receive any benefits for a week in which one or more of the following
7 applies to the claimant for 32 or more hours in that week:

8 **SECTION 12.** 108.05 (3) (cm) of the statutes is created to read:

9 108.05 (3) (cm) The department shall disregard an employee's hours worked
10 for an employer in a week and wages payable to the employee for the week when
11 determining the employee's benefit eligibility if all the following apply:

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

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

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

19 **SECTION 13.** 108.065 (1e) (intro.) of the statutes is amended to read:

20 108.065 (1e) (intro.) Except as provided in subs. (2) ~~and (3)~~ to (3m), if there is
21 more than one employing unit that has a relationship to an employee, the
22 department shall determine which of the employing units is the employer of the
23 employee by doing the following:

24 **SECTION 14.** 108.065 (3m) of the statutes is created to read:

1 108.065 **(3m)** A private agency that serves as a fiscal agent or contracts with
2 a fiscal intermediary to serve as a fiscal agent to recipients of services under ch. 46,
3 47, or 51 may elect to be the employer of one or more employees providing those
4 services. As a condition of eligibility for election to be the employer of one or more
5 employees providing those services, the private agency shall notify in writing the
6 recipient of any such services of its election, for purposes of the unemployment
7 insurance law, to be the employer of any worker providing such services to the
8 recipient, and must be treated as the employer under 26 USC 3301 to 3311 for
9 purposes of federal unemployment taxes on the worker's services.

10 **SECTION 15.** 108.101 (5) of the statutes is created to read:

11 108.101 **(5)** Notwithstanding sub. (4), a final order or judgment of conviction
12 for a crime entered by a court is binding on the convicted person in an action or
13 proceeding under this chapter that relates to the criminal conviction. A person
14 convicted of a crime is precluded from denying the essential allegations of the
15 criminal offense that is the basis for the conviction in an action or proceeding under
16 this chapter.

17 **SECTION 16.** 108.151 (7) (c) of the statutes is amended to read:

18 108.151 **(7)** (c) The fund's treasurer shall determine the total amount due from
19 employers electing reimbursement financing under this section that is uncollectible
20 as of June 30 of each year, but not including any amount that the department
21 determined to be uncollectible ~~prior to~~ before January 1, 2004. No amount may be
22 treated as uncollectible under this paragraph unless the department has exhausted
23 all reasonable remedies for collection of the amount, including liquidation of the
24 assurance required under sub. (4). The department shall charge the total amounts
25 so determined to the uncollectible reimbursable benefits account under s. 108.16

1 (6w). Whenever, as of June 30 of any year, ~~this~~ that account has a negative balance
2 of \$5,000 or more, the treasurer shall, except as provided in par. (i), determine the
3 rate of an assessment to be levied under par. (b) for that year, which shall then
4 become payable by all employers that have elected reimbursement financing under
5 this section as of that date.

6 **SECTION 17.** 108.151 (7) (f) of the statutes is amended to read:

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

11 **SECTION 18.** 108.151 (7) (i) of the statutes is created to read:

12 108.151 (7) (i) In lieu of or in addition to assessing employers as provided in
13 par. (c), the fund's treasurer may apply amounts set aside in the fund's balancing
14 account under s. 108.155 (2) (a) to amounts determined to be uncollectible under par.
15 (c) by transferring those amounts to the account under s. 108.16 (6w). The fund's
16 treasurer may not act under this paragraph whenever the balance remaining of the
17 amount set aside under s. 108.155 (2) (a) is less than \$1,750,000 and may not act to
18 reduce the amount set aside below that amount.

19 **SECTION 19.** 108.155 (2) (a) of the statutes is amended to read:

20 108.155 (2) (a) On October 2, 2016, the fund's treasurer shall set aside
21 \$2,000,000 in the balancing account for accounting purposes. On an ongoing basis,
22 the fund's treasurer shall tally the amounts allocated to reimbursable employers'
23 accounts under s. 108.04 (13) (d) 4. c. and all amounts transferred to the account
24 under s. 106.16 (6w) as provided in s. 108.151 (7) (i) and shall deduct those amounts
25 from the amount set aside plus any interest calculated thereon.

1 **SECTION 20.** 108.16 (6m) (j) of the statutes is created to read:

2 108.16 **(6m)** (j) Any amount transferred to the account under sub. (6w) as
3 provided in s. 108.151 (7) (i).

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

5 108.16 **(6w)** The department shall maintain within the fund an uncollectible
6 reimbursable benefits account to which the department shall credit all amounts
7 received from employers under s. 108.151 (7) and all amounts transferred from the
8 fund's balancing account as provided in s. 108.151 (7) (i).

9 **SECTION 22.** 108.22 (10) of the statutes, as affected by 2019 Wisconsin Act 9,
10 is amended to read:

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

