



Department of Workforce Development

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

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

MEETING

Date: January 18, 2018
Time: 10:00 a.m. – 4:00 p.m.
Place: Department of Workforce Development
201 E. Washington Avenue
Madison, Wisconsin
GEF-1, Room F305

AGENDA ITEMS AND TENTATIVE SCHEDULE:

1. Call to Order and Introductions
2. Approval of Minutes of the September 21, 2017 Council Meeting
3. Department Update
4. Report on the Unemployment Insurance Reserve Fund – Tom McHugh
5. Worker Misclassification Quarterly Report – Mike Myszewski
6. Update on Legislation
 - UIAC Agreed Bill (SB 399/AB 516)
 - Legalization of Marijuana (AB 482)
 - Mobility Grants for UI Claimants (AB 243)
 - Social Security Disability and UI Benefits (HR 2031)
 - Ensuring Quality in the UI Program (EQUIP) Act (HR 3330)
7. Increased Criminal Penalties for UI Benefit Fraud (SB 542/AB 710)

8. Update on Court Cases

- *DWD v. LIRC, Valarie Beres & Mequon Jewish Campus, Inc.*

9. Research Request

10. Future Meeting Dates

11. 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 handicap accessible. 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 10:00 a.m. at <http://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

September 21, 2017

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, Sally Feistel, Shane Griesbach, Terry Hayden, and Mark Reihl

Department Staff Present: Joe Handrick (UI Division Administrator), Karl Dahlen, Ben Peirce, Andy Rubsam, Lili Crane, Patrick Lonergan, Mike Myszewski, Andrew Evenson, Tom McHugh, Mary Jan Rosenak, Pam James, Janet Sausen, Jill Moksouphanh, Robert Usarek, Amy Banicki, Karen Schultz, and Robin Gallagher

Members of the Public Present: Brian Dake (Wisconsin Independent Businesses, Inc.), Vicki Selkowe (Legal Action of Wisconsin), Tracey Schwalbe (Labor & Industry Review Commission (LIRC)), and Victor Forberger (Wisconsin UI Clinic)

1. Call to Order and Introduction

Ms. Knutson called the Unemployment Insurance Advisory Council (Council) meeting to order at 10:02 a.m. under Wisconsin's Open Meeting law. Council members introduced themselves and Ms. Knutson recognized Tracey Schwalbe of LIRC.

2. Approval of Minutes of the August 9, 2017 Council Meeting

Motion by Mr. Manley, second by Mr. Gotzler to approve the August 9, 2017 meeting minutes without correction. The motion carried unanimously.

3. Department Update

Mr. Handrick reported on the department's ongoing efforts to improve customer service and phase out the antiquated IVR system. The department began transitioning to online services in May 2017 first by discontinuing the ability to file initial claims through the automated telephone system and then eliminating the automated telephone system entirely for filing weekly claims in August 2017. The online weekly claims system is also available in Spanish and provides claimants the ability to provide their work search documentation electronically.

4. Report on the Unemployment Insurance Reserve Fund

Mr. McHugh reported on the following UI Reserve Fund Highlights:

- Regular UI benefit payments from January through August 2017 declined \$30.6 million (9%), when compared to benefits paid through the same period last year. Last week (UI Week 37) UI paid only \$5.2 million to 16,044 claimants - the lowest since before 2009. The department issued a recent press release stating initial claims and continued claims are the lowest they have been in 30 years.
- The August year-to-date tax receipts declined when compared to last year by 19% (from \$714.5 million to \$581.7 million). This decrease is attributable both to the change from Tax Schedule B in 2016 to Tax Schedule C in 2017, and to the improvement of employer reserve fund balances.
- The Trust Fund ending balance for August 2017 was \$1.4 billion, an increase of 28% when compared to the same time last year. The Trust Fund balance at the end of 2017 is anticipated to be \$1.4 billion.
- Interest earned on the Trust Fund is received quarterly. Interest earned for the first two quarters in 2017 was \$13.5 million compared to \$9.2 million in the first two quarters of 2016. The interest rate for the Trust Fund is 2.25%.
- Employer Tax Rate Notices will be mailed October 9-23. The notices will be available on the employer portal the second week of October. Tax Rates are anticipated to continue to decline in 2018 with the change from Tax Schedule C to Tax Schedule D. Employer tax rates are expected to go down in 2018, but the decline is not expected to be as pronounced as in previous years.

Ms. Knutson asked about the line item Less Allowance for Doubtful Accounts on the Balance Sheet. Mr. McHugh clarified that UI follows generally accepted accounting principles and, therefore, does not "write off" a large number of overpayments.

5. Worker Misclassification Quarterly Report

Mr. Myszewski informed the Council that the federal grant for worker misclassification ends at the conclusion of the federal fiscal year, so this update is a report on the completion of the federal misclassification grants.

Mr. Myszewski reported on the following statistics. From May 2013 through September 2017:

- 1,427 work classification investigations have been conducted;
- 3,459 misclassified workers have been identified;
- \$1,431,728 in UI tax and interest have been assessed;
- 70% of the investigations resulted in no identifiable violations (30% resulted in violations).

Mr. Myszewski reported that during the 2017 federal fiscal year (October 2016 through September 20, 2017):

- 528 worker classification investigations have been completed;
- 203 cases have been referred to the Field Audit Section (compared to 167 cases the previous fiscal year).

In addition, the department produced three radio public service announcements (PSAs) in both English and Spanish, to educate employers and workers on proper worker classification. The PSAs are being broadcast on approximately 200 radio stations throughout Wisconsin and are anticipated to be aired 15,000 times between the fall of 2017 and spring of 2018.

The Wisconsin Broadcasting Association matches the department spending on PSAs so for every \$1 spent, the department receives \$5 in broadcasting time.

The worker misclassification unit will continue to identify industries with a higher potential for worker misclassification. The department does not have the same authority to issue stop work orders and impose penalties against other industries as it does with construction-related industries. Of the 528 investigations conducted, approximately 60-70% were construction related.

The department received \$1.2 million in federal supplemental budget request (SBR) grants to create and administer the worker misclassification unit. At the end of the federal fiscal year, the SBR grant money will have been expended and will expire. The department will continue to finance the unit through the Program Integrity Fund and general administrative funds.

Ms. Knutson noted some of the materials that Mr. Myszewski presented at a national conference in Baltimore are being utilized by the U.S. Department of Labor (USDOL) as part of a training program for other states due to the department's success.

The Council thanked Mr. Myszewski for his efforts and the accomplishments of the worker misclassification unit.

6. Update on Legislation

Budget Bill (SB 30/AB 64)

Ms. Knutson stated the Governor's budget bill is anticipated to be signed today. In addition to the changes made by the Joint Finance Committee (JFC) previously reported to the Council, the Governor vetoed the provision added by JFC regarding a survey of LIRC decisions by the Supreme Court. The provision that requires the Departments of Children and Families, Public Instruction, Health Services and Workforce Development to collaborate and create a report to determine a link between families receiving public benefits and absenteeism by children from school is still included.

Agreed Bill (SB 399)

Ms. Knutson stated the Council's agreed bill was introduced in the Senate and is awaiting a hearing. The bill may be passed during the floor period scheduled to begin October 31st and signed by the Governor on December 7th. The bill has not been introduced in the Assembly, but it is anticipated to be introduced shortly. All Council members will be notified when a hearing is scheduled and are encouraged to attend.

The department prepared the final fiscal estimate that includes updated information regarding the Department of Revenue's (DOR) intercept of employer tax provision and the Treasury Offset Program (TOP) for employer debt. Based on the rate of recovery through TOP, the department revised the fiscal estimate for the DOR offset provision. The revised estimate of DOR offset collections for unemployment tax debt is approximately \$245,000 annually.

HR 2031 (Social Security Disability and UI Benefits)

Mr. Rubsam reported that 2013 Wisconsin Act 36, effective January 5, 2014, provides that a claimant cannot simultaneously collect both Social Security Disability Insurance (SSDI) benefits and UI benefits. A federal law change (HR 2031) was introduced that would prevent individuals from collecting SSDI if they are collecting UI benefits. Under current law, Wisconsin claimants are not eligible for UI benefits if they received SSDI payments; therefore, HR 2031 would have no impact on Wisconsin.

HR 3330 (Ensuring Quality in the UI Program (EQUIP) Act)

Mr. Rubsam reported that the USDOL regulation regarding occupational drug testing was rescinded earlier this year. Legislation was recently introduced at the federal level – HR 3330 (Ensuring Quality in the UI Program (EQUIP) Act) – which would remove the limitation that drug testing can only be conducted on a UI applicant whose only suitable work is in an occupation that regularly conducts drug testing. The federal language appears to give wide latitude to individual states to drug test UI applicants and sets forth specific statutory provisions that may be included in state law. However, proposed language in a section of the bill could be read to allow states to pass any law concerning drug testing UI applicants that meets the needs of the state without being limited to the specific proposed federal statutory provisions.

USDOL has not provided an update or timeline for implementing regulations related to occupations that allow drug testing for UI benefits.

7. Update on Court Cases

DWD v. LIRC, Kenton Morse & Riteway Bus Services, Inc.

Mr. Rubsam provided an update on the *DWD v. LIRC and Morse et al.* case relating to a whether or not a claimant is eligible to receive UI benefits during a month in which they are receiving SSDI benefits.

Three claimants received monthly SSDI payments. The department determined the claimants were ineligible for benefits for each week in the month that they received SSDI payments. The

claimants appealed and the appeal tribunal reversed the determinations. The appeal tribunal, applying LIRC's prior interpretation of the 2013 SSDI disqualification statute, held that the claimants were only ineligible for the *single week of the month* in which the claimants actually received the SSDI check. The department sought LIRC review.

LIRC affirmed the appeal tribunals in two cases. The department appealed those cases, among other similar cases LIRC decided to Circuit Court. The Circuit Court reversed LIRC's decision and held that the claimants were ineligible for benefits for *each week in a month* in which the claimant received SSDI payments. In the third case, LIRC reversed the appeal tribunal after the Circuit Court had reversed LIRC's decisions in other cases that a claimant is ineligible only for the single week in which they receive a monthly SSDI payment.

In all three cases, LIRC waived the recovery of the overpaid benefits while offering little explanation on the reason for doing so. LIRC argued in Circuit Court that its waiver of the overpayments was proper because the appeal tribunal decisions allowing benefits were "department error" due to misinterpretation of the law. The department argued that the interpretation of the SSDI disqualification was, according to the courts that had reviewed the decisions, reasonable, though not the most reasonable, interpretation of the statute. The Circuit Court affirmed LIRC's decision that waived the overpayments.

The department appealed to the Court of Appeals. The Court of Appeals, giving due weight to LIRC's interpretation of the statutes at issue, affirmed LIRC's decisions waiving recovery of the overpayments. The Court of Appeals held that the department's interpretation of the waiver statute is not more reasonable than LIRC's interpretation, and because ALJs are department employees, LIRC correctly determined that the ALJs' error in determining that the SSDI claimants were eligible for UI benefits constituted "departmental error".

The department is still reviewing this case to determine whether it will seek petition for review with the Supreme Court.

Mr. Manley expressed concern with LIRC's decision to waive the overpayments.

DWD v. LIRC, Valarie Beres & Mequon Jewish Campus, Inc.

Ms. Knutson stated that LIRC filed their responsive brief to the Supreme Court and the department's reply brief is due next week. The department anticipates oral argument will be scheduled before the end of the year.

8. Program Integrity Assessment

Ms. Knutson presented Secretary Allen's request for Council support for the 0.01% assessment of employers for program integrity efforts, to be offset by a corresponding reduction in the solvency tax. Statute requires the Secretary to consult with the Council each year and to consider the balance of the UI Trust Fund. Secretary Allen recommended this assessment after considering the following:

- The amount that would be generated for the Program Integrity Fund from this assessment is projected to be \$3.1 million for the year. This represents over 4% of the total UI operating budget.
- The projected Trust Fund balance at the end of 2018 is \$1.2 to \$1.6 billion. The projected assessment amount represents less than 0.4% of this balance.
- There are no economic forecasts that predict a significant economic downturn any time in 2018.
- The March 2017 fraud report showed that fraudulent activity dropped in 2016 both in terms of real dollars and as a percentage of claims -- UI fraud claims in 2016 dropped by 35.3%. Our efforts are working.

Motion

Motion by Mr. Reihl, second by Mr. Manley to approve the 0.01% assessment of employers for program integrity efforts for 2018. The motion carried unanimously.

9. Future Meeting Dates

The next scheduled Council meeting is October 19, 2017. The department will conduct a poll to verify Council availability.

10. Adjourn

Motion by Ms. Feistel, second by Mr. Hayden to adjourn at 10:55 a.m. The motion carried unanimously.

UI Reserve Fund Highlights

January 18, 2018

1. Benefit payments for calendar year 2017 total \$408.0 million, a decrease of 10.8% when compared to the same period one year ago. The last time UI benefits were that low was in 1999.

	2017		2016		Change	% Change
Benefits Paid	<i>(in millions)</i>		<i>(in millions)</i>		<i>(in millions)</i>	
Total Regular UI Paid	\$ 408.0	\$	457.4	\$	(49.4)	(10.8%)

2. 2017 calendar year tax receipts were \$683.1 million compared to 2016 tax receipts of \$842.5 million. The 18.9% decrease is a result of the change in Rate Schedules from B in 2016 to C in 2017, along with the movement of employers as their experience rating has improved.

	2017		2016		Change	% Change
Tax Receipts	<i>(in millions)</i>		<i>(in millions)</i>		<i>(in millions)</i>	
Total Tax Receipts	\$ 683.1	\$	842.5	\$	(159.4)	(18.9%)

3. The December 31, 2017, Trust Fund ending balance was nearly \$1.5 billion, an increase of 27% when compared to the December 31, 2016, balance of nearly \$1.2 billion. The historic high Trust Fund Balance was October 2000 when the balance was nearly \$1.9 billion (\$1,868,355,466).

	2017		2016		Change	% Change
UI Trust Fund Balance	<i>(in millions)</i>		<i>(in millions)</i>		<i>(in millions)</i>	
Cash Analysis Statement	\$ 1,471.8	\$	1,159.2	\$	312.6	27.0%

4. Interest earned in 2017 was \$29.7 million, an increase of 36.2% when compared to 2016 interest of \$21.8 million. The interest rate for the last quarter of 2017 was 2.2153%.

	2017		2016		Change	% Change
UI Trust Fund Interest Earned	<i>(in millions)</i>		<i>(in millions)</i>		<i>(in millions)</i>	
Total Interest Earned	\$ 29.7	\$	21.8	\$	7.9	36.2%

2018 UI Employer Tax Rate Highlights

Employer tax rates for 2018 were mailed in October 2017.

The balance of the Trust Fund on 6/30/17 determined the tax rate schedule for 2018. The Trust Fund balance on that date exceeded \$1.2 billion. (Actual 6/30/17 balance was \$1.3 billion.) The 2018 tax rate table moved from Schedule C to Schedule D.

Statutory Tax Schedules

- Wisconsin has 4 separate tax schedules. They run from A through D, with A raising the largest amount of tax revenue and D the least.
- Which schedule is in place depends upon the balance of the UI Trust Fund.

Tax Schedule	UI Trust Fund Amount
A	Less than \$300 million
B	\$300 to \$900 million
C	\$900 million to \$1.2 billion
D	Greater than \$1.2 billion

- The following shows the number of employers in each of the various rate range categories indicated for both 2018 and 2017.

NUMBER OF EMPLOYERS BY TAX RATE RANGES

Tax Rate Ranges	Number of Employers 2018 (Schedule D)	Number of Employers 2017 (Schedule C)	Difference
0%	11,867	11,096	6.9%
More than 0 and less than 1%	56,319	45,121	24.8%
1% and less than 2%	20,402	27,248	(25.1%)
2% and less than 3%	10,500	9,441	11.2%
3% and less than 4%	26,416	26,497	(0.3%)
4% and less than 5%	3,614	6,226	(42.0%)
5% and less than 6%	1	1	0.0%
6% and less than 7%	2,620	2,828	(7.4%)
7% and less than 8%	733	888	(17.5%)
8% and less than 9%	836	1,062	(21.3%)
9% and less than 10%	736	922	(20.2%)
10% and less than 11%	269	291	(7.6%)
11% and less than 12%	598	791	(24.4%)
12%	2,730	3,284	(16.9%)
Total	137,641	135,696	

8,522 accounts with a negative reserve fund balance in 2018

- There are 11,867 employers who will have a zero-tax rate in 2018. Although these employers will pay no UI taxes for 2018 payrolls, the employers are still required to file tax and wage reports. Of these zero-rated employers, 7,132 (60%) were also at the zero-tax rate for 2017. Schedules A and B do not have a zero-tax rate.
- Note that the 0%, 0%-1% and 2%-3% categories were the only tax rate ranges that had an increase in the number of employers. This reflects both moving to a lower tax rate schedule for 2018 and further improvement in employer reserve fund balances due to the improved economy.
- The number of employers with a negative reserve fund balance has decreased annually. See Appendix 4.
- There were 554 fewer employers at the maximum 12% rate in 2018 than for 2017. In the 2015 rate run, there were 5,278 employers at 12%. This represents nearly a 50% drop in the highest tax rate with the improvement of the economy. The highest 3 tax brackets (10.55%, 11.30% and 12.00%) are not impacted by the schedule changes.

2. The following shows the number of employers whose rate in comparison with the previous year either did not change, increased, decreased, or were rated at the new employer rate.

Change in Tax Rate Year to Year								
Rate Run Changes Over Current Year	2018 Schedule D		2017 Schedule C		2016 Schedule B		2015 Schedule A	
	Tax Change	% of Employers						
No change	10,819	7.9%	3,343	2.5%	4,824	3.6%	26,727	20.3%
Increase	30,447	22.1%	28,876	21.3%	26,881	20.1%	35,841	27.2%
Decrease	74,672	54.3%	82,234	60.6%	81,363	61.0%	48,882	37.1%
New ER	21,703	15.8%	21,243	15.7%	20,402	15.3%	20,167	15.3%
Total	137,641	100.0%	135,696	100.0%	133,470	100.0%	131,617	100.0%

No Change

Of the 10,819 employers whose rate did not change, 7,152 were at the lowest rates in both 2017 and 2018 (0% for small employers and 0.05% for large employers). Most of the remaining were negative balance employers who stayed in the highest tax rate bracket.

Rate Increases

Rate Increases are due solely to employer experience rating.

Rate Decreases

The 20,132, or 27%, of the 74,672 rate decreases were due solely to the rate schedule change. Had the schedule not changed, they would have been assigned the same rate they had last year.

New Employer Rates

The rates for the 21,703 new, large and small, employers remain unchanged at 3.25% and 3.05%, respectively, under Schedule D. The rates for large and small new construction employers saw the largest decreases from 4.55% and 4.4%, respectively, to 3.9% and 3.75%. There are 1,560 new construction employers.

3. Each employer's actual tax rates for 2017 and 2018 were multiplied by the employer's reported FY 2017 taxable payroll. The resulting taxes due for 2018 were subtracted from the taxes due for 2017 to compute the overall tax savings. This estimated tax savings is not a forecast because payroll is held constant at 2017 levels.

Tax Rate Comparison 2018 Taxes Versus 2017 Taxes

(2018 Less 2017 Tax Rate) For Each Employer
Multiplied by 6/30/17 Payroll

NAICS Number and Description	Tax Difference 2018-2017	Change
31-33 Manufacturing	\$ (23,168,119)	(15.8%)
56 Administrative and Support and Waste Management and Remediation Services	\$ (11,232,223)	(17.1%)
44-45 Retail Trade	\$ (9,464,133)	(15.1%)
23 Construction	\$ (9,423,445)	(9.3%)
62 Health Care and Social Assistance	\$ (7,387,928)	(16.5%)
72 Accommodation and Food Services	\$ (7,070,136)	(16.7%)
48-49 Transportation and Warehousing	\$ (5,076,356)	(14.9%)
42 Wholesale Trade	\$ (4,815,458)	(14.2%)
54 Professional, Scientific, and Technical Services	\$ (3,598,965)	(12.5%)
52 Finance and Insurance	\$ (2,716,708)	(10.0%)
51 Information	\$ (2,310,353)	(20.0%)
55 Management of Companies and Enterprises	\$ (2,032,234)	(25.3%)
71 Arts, Entertainment, and Recreation	\$ (2,026,292)	(17.6%)
81 Other Services (except Public Administration)	\$ (1,884,218)	(13.3%)
11 Agriculture, Forestry, Fishing and Hunting	\$ (1,598,222)	(17.4%)
53 Real Estate and Rental and Leasing	\$ (1,025,595)	(14.7%)
92 Public Administration	\$ (671,840)	(26.0%)
61 Educational Services	\$ (524,580)	(18.2%)
99 Unclassified	\$ (400,312)	(7.4%)
21 Mining, Quarrying, and Oil and Gas Extraction	\$ (331,058)	(11.3%)
22 Utilities	\$ (274,221)	(16.3%)
Total	\$ (97,032,396)	(14.6%)

4. For each employer, we looked at employer payments credited to their reserve fund versus benefits paid out to their former employees, the difference being the net contribution to the Trust Fund.

Taxes Paid and Benefits Charges						
July 1, 2014 to June 30, 2017						
<i>(Sorted by NAICS Employment Sector)</i>						
Naics Code	(\$ Millions)			(Percentage)		
	Payments Credited to Reserve Fund	Benefit Charges	Difference	% of Taxable Payroll	% of Benefit Charges	% of Taxes Paid
11 Agriculture, Forestry, Fishing and Hunting	\$ 24.3	\$ 17.2	\$ 7.1	1.3%	1.4%	1.2%
21 Mining, Quarrying, and Oil and Gas Extraction	7.9	8.9	(1.0)	0.2%	0.7%	0.4%
22 Utilities	4.2	3.2	1.0	0.5%	0.3%	0.3%
23 Construction	294.4	327.3	(32.9)	6.3%	26.7%	13.1%
31-33 Manufacturing	414.7	262.7	152.0	23.2%	21.4%	23.1%
42 Wholesale Trade	86.1	48.2	37.9	6.0%	3.9%	4.9%
44-45 Retail Trade	158.3	72.4	85.9	12.8%	5.9%	9.7%
48-49 Transportation and Warehousing	87.3	66.3	21.0	4.2%	5.4%	4.5%
51 Information	31.6	18.7	12.8	2.1%	1.5%	1.9%
52 Finance and Insurance	65.2	36.0	29.2	6.1%	2.9%	4.1%
53 Real Estate and Rental and Leasing	18.1	10.2	8.0	1.2%	0.8%	1.0%
54 Professional, Scientific, and Technical Services	75.1	48.9	26.2	5.1%	4.0%	4.1%
55 Management of Companies and Enterprises	17.2	11.3	5.9	1.5%	0.9%	1.1%
56 Adm and Suprt and Waste Magt	208.5	132.7	75.8	7.7%	10.8%	10.7%
61 Educational Services	8.2	4.9	3.3	0.5%	0.4%	0.5%
62 Health Care and Social Assistance	116.9	48.4	68.5	8.4%	3.9%	6.8%
71 Arts, Entertainment, and Recreation	32.6	23.4	9.2	1.3%	1.9%	1.6%
72 Accommodation and Food Services	106.0	47.6	58.3	8.0%	3.9%	6.0%
81 Other Services (except Public Administration)	37.9	20.4	17.4	2.8%	1.7%	2.1%
92 Public Administration	7.8	4.7	3.1	0.3%	0.4%	0.4%
99 Unclassified Establishment	27.3	8.4	18.9	0.5%	0.7%	1.4%
00 Undeclared Industry	\$ 21.5	\$ 3.2	\$ 18.3	0.0%	0.3%	1.1%
Total	\$ 1,851.1	\$ 1,225.2	\$ 625.9	100.0%	100.0%	100.0%

5. WI is the only state with tax rate limiters. Increases to an employer's basic tax are limited to 1% for employers with a positive reserve fund balance and 2% for employers with a negative reserve fund balance. The impact to the Trust Fund is estimated to be about \$14.6 million.

2018 Estimated Effect of Rate Limiters

2018 Employer Size	2018 Number of Employers	Tax Savings Due to Limiters	2017 Number of Employers	2017 Savings of Limiters	2016 Number of Employers	2016 Savings of Limiters
Large	259	\$ (6,129,015)	265	\$ (6,627,538)	238	\$ (7,362,508)
Small	7,253	\$ (8,511,502)	7,722	\$ (9,118,686)	8,703	\$ (10,231,262)
Total	7,512	\$ (14,640,517)	7,987	\$ (15,746,224)	8,941	\$ (17,593,770)

6. The following charts show the distribution of tax rates by employer sector. The first chart shows the distribution by employer count, and the second shows the distribution by employer FY '17 taxable payroll.

The small charts below each spotlights Construction, Manufacturing and Health Care.

Employer Count by 2018 Rate Category and Employment Sector

Open, Subject, Taxable 10/7/17

NAICS Code and Description	Rate Category												Total	
	Less than 2%		2.0% to 3.9%		4.0% to 5.9%		6.0% to 7.9%		8% to 9.9%		More than 10%			
11 Agriculture, Forestry, Fishing and Hunting	1,929	75%	346	13%	75	3%	76	3%	47	2%	104	4%	2,577	2%
21 Mining, Quarrying, and Oil and Gas Extraction	59	37%	32	20%	12	7%	23	14%	12	7%	23	14%	161	0%
22 Utilities	73	78%	14	15%	3	3%	3	3%	0	0%	1	1%	94	0%
23 Construction	6,950	52%	2,431	18%	820	6%	932	7%	502	4%	1,707	13%	13,342	10%
31-33 Manufacturing	5,967	73%	1,455	18%	268	3%	226	3%	86	1%	170	2%	8,172	6%
42 Wholesale Trade	8,098	78%	1,602	16%	187	2%	249	2%	94	1%	93	1%	10,323	8%
44-45 Retail Trade	8,532	80%	1,554	15%	193	2%	182	2%	83	1%	155	1%	10,699	8%
48-49 Transportation and Warehousing	2,884	65%	795	18%	184	4%	174	4%	97	2%	270	6%	4,404	3%
51 Information	1,042	76%	250	18%	29	2%	33	2%	7	1%	8	1%	1,369	1%
52 Finance and Insurance	3,954	81%	775	16%	73	1%	54	1%	23	0%	16	0%	4,895	4%
53 Real Estate and Rental and Leasing	2,660	77%	594	17%	89	3%	75	2%	24	1%	32	1%	3,474	3%
54 Professional, Scientific, and Technical Services	9,529	76%	2,240	18%	274	2%	262	2%	99	1%	149	1%	12,553	9%
55 Management of Companies and Enterprises	354	75%	100	21%	7	1%	6	1%	4	1%	4	1%	475	0%
56 Administrative and Support and Waste Management and Remediation Services	3,687	56%	1,418	22%	358	5%	372	6%	216	3%	503	8%	6,554	5%
61 Educational Services	934	75%	254	20%	28	2%	18	1%	6	0%	2	0%	1,242	1%
62 Health Care and Social Assistance	10,521	55%	7,828	41%	373	2%	220	1%	64	0%	34	0%	19,040	14%
71 Arts, Entertainment, and Recreation	1,483	65%	448	20%	111	5%	91	4%	40	2%	120	5%	2,293	2%
72 Accommodation and Food Services	8,450	76%	2,176	20%	202	2%	101	1%	65	1%	108	1%	11,102	8%
81 Other Services (except Public Administration)	10,289	81%	1,803	14%	224	2%	195	2%	83	1%	79	1%	12,673	9%
92 Public Administration	44	69%	9	14%	4	6%	3	5%	1	2%	3	5%	64	0%
99/00 Unclassified	1,149	9%	10,792	89%	101	1%	58	0%	19	0%	16	0%	12,135	9%
Total	88,588	64%	36,916	27%	3,615	3%	3,353	2%	1,572	1%	3,597	3%	137,641	100%

All Employers		
Rate Category	Employer Count	Percent
Less than 2%	88,588	64%
2.0% to 3.9%	36,916	27%
4.0% to 5.9%	3,615	3%
6.0% to 7.9%	3,353	2%
8% to 9.9%	1,572	1%
More than 10%	3,597	3%
Total	137,641	100%

23 Construction		
Rate Category	Employer Count	Percent
Less than 2%	6,950	52%
2.0% to 3.9%	2,431	18%
4.0% to 5.9%	820	6%
6.0% to 7.9%	932	7%
8% to 9.9%	502	4%
More than 10%	1,707	13%
Total	13,342	100%

31-33 Manufacturing		
Rate Category	Employer Count	Percent
Less than 2%	5,967	73%
2.0% to 3.9%	1,455	18%
4.0% to 5.9%	268	3%
6.0% to 7.9%	226	3%
8% to 9.9%	86	1%
More than 10%	170	2%
Total	8,172	100%

62 Health Care and Social Assistance		
Rate Category	Employer Count	Percent
Less than 2%	10,521	55%
2.0% to 3.9%	7,828	41%
4.0% to 5.9%	373	2%
6.0% to 7.9%	220	1%
8% to 9.9%	64	0%
More than 10%	34	0%
Total	19,040	100%

Employer '17 Payroll by 2018 Tax Rate Ranges

Employment Sector Taxable Payroll 6/30/17 (\$ Million)

Open, Subject, Taxable 10/7/17

NAICS Code and Description	Rate Category												Total	
	Less than 2%		2.0% to 3.9%		4.0% to 5.9%		6.0% to 7.9%		8% to 9.9%		More than 10%			
11 Agriculture, Forestry, Fishing and Hunting	\$ 325.9	76%	\$ 52.4	12%	\$ 22.0	5%	\$ 9.0	2%	\$ 5.3	1%	\$ 14.3	3%	\$ 428.9	1%
21 Mining, Quarrying, and Oil and Gas Extraction	22.6	36%	19.0	30%	\$ 4.1	6%	\$ 5.8	9%	\$ 2.1	3%	\$ 9.2	15%	\$ 62.7	0%
22 Utilities	169.7	96%	3.5	2%	\$ 2.7	2%	\$ 0.5	0%	\$ -	0%	\$ 0.0	0%	\$ 176.4	1%
23 Construction	687.9	34%	432.7	21%	\$ 299.5	15%	\$ 218.1	11%	\$ 99.0	5%	\$ 289.0	14%	\$ 2,026.3	6%
31-33 Manufacturing	6081.4	81%	994.1	13%	\$ 217.2	3%	\$ 98.2	1%	\$ 36.7	0%	\$ 59.6	1%	\$ 7,487.3	23%
42 Wholesale Trade	1518.4	78%	364.3	19%	\$ 31.8	2%	\$ 14.4	1%	\$ 5.6	0%	\$ 5.0	0%	\$ 1,939.5	6%
44-45 Retail Trade	3658.0	87%	435.8	10%	\$ 62.5	1%	\$ 22.2	1%	\$ 5.0	0%	\$ 7.8	0%	\$ 4,191.2	13%
48-49 Transportation and Warehousing	941.4	70%	231.8	17%	\$ 61.5	5%	\$ 49.6	4%	\$ 15.9	1%	\$ 53.7	4%	\$ 1,353.9	4%
51 Information	599.4	87%	84.7	12%	\$ 2.8	0%	\$ 3.4	0%	\$ 0.1	0%	\$ 0.0	0%	\$ 690.4	2%
52 Finance and Insurance	1761.7	90%	193.4	10%	\$ 8.4	0%	\$ 3.3	0%	\$ 0.5	0%	\$ 0.5	0%	\$ 1,967.7	6%
53 Real Estate and Rental and Leasing	286.2	76%	67.4	18%	\$ 15.3	4%	\$ 5.6	1%	\$ 2.0	1%	\$ 2.0	1%	\$ 378.4	1%
54 Professional, Scientific, and Technical Services	1278.9	78%	284.8	17%	\$ 36.4	2%	\$ 20.1	1%	\$ 6.0	0%	\$ 15.4	1%	\$ 1,641.5	5%
55 Management of Companies and Enterprises	428.7	89%	44.9	9%	\$ 4.3	1%	\$ 0.8	0%	\$ 0.2	0%	\$ 0.3	0%	\$ 479.2	1%
56 Administrative and Support and Waste Management and Remediation Services	1598.5	64%	579.2	23%	\$ 140.2	6%	\$ 76.4	3%	\$ 34.9	1%	\$ 54.0	2%	\$ 2,483.2	8%
61 Educational Services	132.5	80%	28.8	17%	\$ 2.6	2%	\$ 2.0	1%	\$ 0.6	0%	\$ 0.2	0%	\$ 166.7	1%
62 Health Care and Social Assistance	2166.5	79%	485.1	18%	\$ 59.0	2%	\$ 12.3	0%	\$ 5.2	0%	\$ 4.1	0%	\$ 2,732.1	8%
71 Arts, Entertainment, and Recreation	259.7	63%	84.2	20%	\$ 36.6	9%	\$ 17.0	4%	\$ 4.9	1%	\$ 11.8	3%	\$ 414.3	1%
72 Accommodation and Food Services	2112.3	81%	370.9	14%	\$ 43.2	2%	\$ 26.8	1%	\$ 10.2	0%	\$ 29.1	1%	\$ 2,592.4	8%
81 Other Services (except Public Administration)	728.0	80%	137.6	15%	\$ 22.9	3%	\$ 10.8	1%	\$ 2.4	0%	\$ 7.7	1%	\$ 909.3	3%
92 Public Administration	74.3	74%	13.1	13%	\$ 11.5	11%	\$ 0.1	0%	\$ 1.3	1%	\$ 0.1	0%	\$ 100.4	0%
99/00 Unclassified	37.3	20%	140.2	76%	\$ 4.5	2%	\$ 1.1	1%	\$ 0.5	0%	\$ 0.4	0%	\$ 183.9	1%
Total	\$24,869.2	77%	\$ 5,047.4	16%	\$1,088.8	3%	\$ 597.5	2%	\$238.4	1%	\$ 564.3	2%	\$ 32,405.5	100%

All Employers		
Rate Category	FY 17 Payroll \$ Million	Percent
Less than 2%	\$24,869.2	77%
2.0% to 3.9%	\$ 5,047.4	16%
4.0% to 5.9%	\$ 1,088.8	3%
6.0% to 7.9%	\$ 597.5	2%
8% to 9.9%	\$ 238.4	1%
More than 10%	\$ 564.3	2%
Total	\$32,405.5	100%

23 Construction		
Rate Category	FY 17 Payroll \$ Million	Percent
Less than 2%	\$ 687.9	34%
2.0% to 3.9%	\$ 432.7	21%
4.0% to 5.9%	\$ 299.5	15%
6.0% to 7.9%	\$ 218.1	11%
8% to 9.9%	\$ 99.0	5%
More than 10%	\$ 289.0	14%
Total	\$2,026.3	100%

31-33 Manufacturing		
Rate Category	FY 17 Payroll \$ Million	Percent
Less than 2%	\$6,081.4	81%
2.0% to 3.9%	\$ 994.1	13%
4.0% to 5.9%	\$ 217.2	3%
6.0% to 7.9%	\$ 98.2	1%
8% to 9.9%	\$ 36.7	0%
More than 10%	\$ 59.6	1%
Total	\$7,487.3	100%

62 Health Care and Social Assistance		
Rate Category	FY 17 Payroll \$ Million	Percent
Less than 2%	\$2,166.5	79%
2.0% to 3.9%	\$ 485.1	18%
4.0% to 5.9%	\$ 59.0	2%
6.0% to 7.9%	\$ 12.3	0%
8% to 9.9%	\$ 5.2	0%
More than 10%	\$ 4.1	0%
Total	\$2,732.1	100%

APPENDIX 1
Change in Tax Rates (Per Employee)

Rate Schedule Changes from Schedule C to D

Wisconsin §108.18		SCHEDULE C		SCHEDULE D		Schedule D Less Schedule C		
RESERVE PERCENTAGE		Total Tax Rate %		Total Tax Rate %		Total Tax Rate % Change		Total \$ Change
At least	But less than	Employers Under \$500K	Employers \$500K or over	Employers Under \$500K	Employers \$500K or over	Employers Under \$500K	Employers \$500K or over	Per Taxable Wage \$14,000
15.00%		0	0.05	0	0.05	0	0	\$ -
10.00%	15.00%	0.22	0.25	0.12	0.15	(0.10)	(0.10)	\$ (14)
9.50%	10.00%	0.37	0.40	0.27	0.30	(0.10)	(0.10)	\$ (14)
9.00%	9.50%	0.47	0.50	0.37	0.40	(0.10)	(0.10)	\$ (14)
8.50%	9.00%	0.75	0.80	0.65	0.70	(0.10)	(0.10)	\$ (14)
8.00%	8.50%	0.90	1.00	0.80	0.90	(0.10)	(0.10)	\$ (14)
7.50%	8.00%	1.00	1.15	0.90	1.05	(0.10)	(0.10)	\$ (14)
7.00%	7.50%	1.20	1.35	1.10	1.25	(0.10)	(0.10)	\$ (14)
6.50%	7.00%	1.45	1.65	1.35	1.55	(0.10)	(0.10)	\$ (14)
6.00%	6.50%	1.80	2.00	1.70	1.90	(0.10)	(0.10)	\$ (14)
5.50%	6.00%	2.20	2.40	2.10	2.30	(0.10)	(0.10)	\$ (14)
5.00%	5.50%	2.60	2.80	2.50	2.70	(0.10)	(0.10)	\$ (14)
4.50%	5.00%	3.00	3.20	2.90	3.10	(0.10)	(0.10)	\$ (14)
4.00%	4.50%	3.40	3.55	3.30	3.45	(0.10)	(0.10)	\$ (14)
3.50%	4.00%	3.85	4.00	3.75	3.90	(0.10)	(0.10)	\$ (14)
0	3.50%	4.40	4.55	4.30	4.45	(0.10)	(0.10)	\$ (14)
OVERDRAWN								
LT 0	1.00%	6.40	6.40	6.40	6.40	-	-	-
1.00%	2.00%	6.90	6.90	6.90	6.90	-	-	-
2.00%	3.00%	7.40	7.40	7.40	7.40	-	-	-
3.00%	4.00%	7.90	7.90	7.90	7.90	-	-	-
4.00%	5.00%	8.50	8.50	8.50	8.50	-	-	-
5.00%	6.00%	9.05	9.05	9.05	9.05	-	-	-
6.00%	7.00%	9.80	9.80	9.75	9.75	(0.05)	(0.05)	\$ (7)
7.00%	8.00%	10.55	10.55	10.55	10.55	-	-	-
8.00%	9.00%	11.30	11.30	11.30	11.30	-	-	-
9.00%		12.00	12.00	12.00	12.00	-	-	-

New Employer rates do not change from Schedule C to Schedule D.

New Employer	3.05	3.25	3.05	3.25	0	0	-
--------------	------	------	------	------	---	---	---

**APPENDIX 2
Tax Rates Schedule A Through D**

Rate Table Schedule A Through Schedule D

Wisconsin Statute 108.18 Tax Table

		SCHEDULE A 2015		SCHEDULE B 2016		SCHEDULE C 2017		SCHEDULE D 2018	
RESERVE PERCENTAGE		Tax Rate % Payroll		Tax Rate % Payroll		Tax Rate % Payroll		Tax Rate % Payroll	
At least	But less than	Under \$500K	\$500K or over						
Greater than 15%		0.27	0.70	0.05	0.10	0.00	0.05	0.00	0.05
10.00%	15.00%	0.27	0.70	0.25	0.30	0.22	0.25	0.12	0.15
9.50%	10.00%	0.45	1.05	0.40	0.50	0.37	0.40	0.27	0.30
9.00%	9.50%	0.53	1.23	0.50	0.65	0.47	0.50	0.37	0.40
8.50%	9.00%	0.92	1.42	0.85	0.95	0.75	0.80	0.65	0.70
8.00%	8.50%	1.09	1.59	1.00	1.15	0.90	1.00	0.80	0.90
7.50%	8.00%	1.26	1.76	1.10	1.30	1.00	1.15	0.90	1.05
7.00%	7.50%	1.47	1.97	1.30	1.50	1.20	1.35	1.10	1.25
6.50%	7.00%	1.83	2.23	1.60	1.80	1.45	1.65	1.35	1.55
6.00%	6.50%	2.18	2.58	1.95	2.15	1.80	2.00	1.70	1.90
5.50%	6.00%	2.62	3.02	2.40	2.55	2.20	2.40	2.10	2.30
5.00%	5.50%	3.06	3.46	2.80	2.95	2.60	2.80	2.50	2.70
4.50%	5.00%	3.40	3.90	3.20	3.35	3.00	3.20	2.90	3.10
4.00%	4.50%	3.84	4.34	3.60	3.70	3.40	3.55	3.30	3.45
3.50%	4.00%	4.28	4.78	4.10	4.15	3.85	4.00	3.75	3.90
0.00%	3.50%	4.77	5.27	4.65	4.70	4.40	4.55	4.30	4.45
LT 0	-1.00%	6.60	6.60	6.60	6.60	6.40	6.40	6.40	6.40
-1.00%	-2.00%	7.10	7.10	7.10	7.10	6.90	6.90	6.90	6.90
-2.00%	-3.00%	7.60	7.60	7.60	7.60	7.40	7.40	7.40	7.40
-3.00%	-4.00%	8.10	8.10	8.10	8.10	7.90	7.90	7.90	7.90
-4.00%	-5.00%	8.60	8.60	8.60	8.60	8.50	8.50	8.50	8.50
-5.00%	-6.00%	9.10	9.10	9.10	9.10	9.05	9.05	9.05	9.05
-6.00%	-7.00%	9.80	9.80	9.80	9.80	9.80	9.80	9.75	9.75
-7.00%	-8.00%	10.55	10.55	10.55	10.55	10.55	10.55	10.55	10.55
-8.00%	-9.00%	11.30	11.30	11.30	11.30	11.30	11.30	11.30	11.30
-9.00%		12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00
Rates unaffected by schedule									
New Employer		3.60	4.10	3.25	3.40	3.05	3.25	3.05	3.25
New Construction Rates Calculated Annually									

Appendix 3 History

Years	Schedule
1990	Schedule B
1991-1997	Schedule C
1998-2003	Schedule D
2004	Schedule C
2005-2009	Schedule B
2010 – 2015	Schedule A
2016	Schedule B
2017	Schedule C
2018	Schedule D

Appendix 4
Movement of Negative Reserve Fund Balance Employers

Number of Employers Reserve Fund Balances Less Than Zero				
Tax Rate Ranges	Number of Employers 2018 (Schedule D)	Number of Employers 2017 (Schedule C)	Number of Employers 2016 (Schedule B)	Number of Employers 2015 (Schedule A)
6% and less than 7%	2,620	2,828	3,638	4,197
7% and less than 8%	733	888	1,896	2,372
8% and less than 9%	836	1,062	1,863	2,233
9% and less than 10%	736	922	1,101	1,357
10% and less than 11%	269	291	303	379
11% and less than 12%	598	791	937	1,142
12%	2,730	3,284	4,254	5,278
Total Employers with Negative Reserve Fund Balances	8,522	10,066	13,992	16,958
Total Employers with Reserve Fund Balances Greater Than Zero	129,119	125,630	119,478	114,655
Total Employers	137,641	135,696	133,470	131,613
Percent of Employers With Negative Reserve Fund Balances	6.2%	7.4%	10.5%	12.9%

FINANCIAL STATEMENTS

For the Month Ended December 31, 2017



Division of Unemployment Insurance

Bureau of Tax and Accounting

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
BALANCE SHEET
FOR THE MONTH ENDED December 30, 2017

	<u>CURRENT YEAR</u>	<u>PRIOR YEAR</u>
<u>ASSETS</u>		
CASH:		
U.I. CONTRIBUTION ACCOUNT	1,057,423.25	735,862.91
U.I. BENEFIT ACCOUNTS	257,950.45	235,427.34
U.I. TRUST FUND ACCOUNTS (1) (2)	<u>1,479,554,223.71</u>	<u>1,164,855,773.67</u>
TOTAL CASH	1,480,869,597.41	1,165,827,063.92
ACCOUNTS RECEIVABLE:		
BENEFIT OVERPAYMENT RECEIVABLES	85,773,401.88	98,504,300.61
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (3)	<u>(38,469,017.78)</u>	<u>(41,589,622.17)</u>
NET BENEFIT OVERPAYMENT RECEIVABLES	47,304,384.10	56,914,678.44
TAXABLE EMPLOYER RFB & SOLVENCY RECEIV (4) (5)	32,396,105.26	38,282,967.93
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (3)	<u>(20,014,639.25)</u>	<u>(24,368,902.08)</u>
NET TAXABLE EMPLOYER RFB & SOLVENCY RECEIV	12,381,466.01	13,914,065.85
OTHER EMPLOYER RECEIVABLES	23,000,749.03	24,014,488.01
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS	<u>(9,931,533.73)</u>	<u>(11,326,144.17)</u>
NET OTHER EMPLOYER RECEIVABLES	13,069,215.30	12,688,343.84
TOTAL ACCOUNTS RECEIVABLE	<u>72,755,065.41</u>	<u>83,517,088.13</u>
TOTAL ASSETS	<u>1,553,624,662.82</u>	<u>1,249,344,152.05</u>
<u>LIABILITIES AND EQUITY</u>		
LIABILITIES:		
CONTINGENT LIABILITIES (6)	31,762,614.86	35,182,381.90
OTHER LIABILITIES	9,552,293.69	7,545,936.11
FEDERAL BENEFIT PROGRAMS	337,448.56	361,852.53
CHILD SUPPORT HOLDING ACCOUNT	8,358.00	10,904.00
FEDERAL WITHHOLDING TAXES DUE	26,531.00	110,516.78
STATE WITHHOLDING TAXES DUE	1,565,499.23	1,502,802.01
DUE TO OTHER GOVERNMENTS (7)	<u>397,453.68</u>	<u>414,485.38</u>
TOTAL LIABILITIES	43,650,199.02	45,128,878.71
EQUITY:		
RESERVE FUND BALANCE	2,186,864,693.07	1,957,463,280.65
BALANCING ACCOUNT	<u>(676,890,229.27)</u>	<u>(753,248,007.31)</u>
TOTAL EQUITY	<u>1,509,974,463.80</u>	<u>1,204,215,273.34</u>
TOTAL LIABILITIES AND EQUITY	<u>1,553,624,662.82</u>	<u>1,249,344,152.05</u>

1. \$2,014,936 of this balance is for administration purposes and is not available to pay benefits.
2. \$2,056,799 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.
3. The allowance for uncollectible benefit overpayments is 46.8%. The allowance for uncollectible delinquent employer taxes is 51.4%. This is based on the historical collectibility of our receivables. This method of recognizing receivable balances is in accordance with generally accepted accounting principles.
4. The remaining tax due at the end of the current month for employers utilizing the 1st quarter deferral plan is \$296,868. Deferrals for the prior year were \$447,256.
5. \$8,775,960, or 27.1%, of this balance is estimated.
6. \$18,927,573 of this balance is net benefit overpayments which, when collected, will be credited to a reimbursable or federal program. \$12,835,042 of this balance is net interest, penalties, SAFI, and other fees assessed to employers and penalties and other fees assessed to claimants which, when collected, will be credited to the state fund.
7. This balance includes SAFI Payable of \$7,656. The 12/31/2017 balance of the Unemployment Interest Payment Fund (DWD Fund 214) is \$15,421. Total Life-to-date transfers from DWD Fund 214 to the Unemployment Program Integrity Fund (DWD Fund 298) were \$9,451,827.

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
RESERVE FUND ANALYSIS
FOR THE MONTH ENDED December 30, 2017

	<u>CURRENT ACTIVITY</u>	<u>YTD ACTIVITY</u>	<u>PRIOR YTD</u>
BALANCE AT BEGINNING OF MONTH/YEAR:			
U.I. TAXABLE ACCOUNTS	2,660,297,172.30	2,409,958,025.15	2,118,970,629.39
BALANCING ACCOUNT	<u>(1,129,275,369.36)</u>	<u>(1,205,742,751.81)</u>	<u>(1,324,627,668.90)</u>
TOTAL BALANCE	1,531,021,802.94	1,204,215,273.34	794,342,960.49
<u>INCREASES:</u>			
TAX RECEIPTS/RFB PAID	1,377,005.28	514,701,340.31	603,623,252.20
ACCRUED REVENUES	1,408,902.95	(5,373,452.46)	(5,870,902.11)
SOLVENCY PAID	319,829.25	168,379,457.22	238,918,568.13
REDA PAID	0.00	0.00	30.20
FORFEITURES	31,391.00	466,067.69	1,002,655.37
BENEFIT CONCEALMENT INCOME	43,842.34	977,018.37	1,474,527.40
INTEREST EARNED ON TRUST FUND	8,296,117.69	29,729,533.01	21,833,381.51
FUTA TAX CREDITS	2,331.29	67,696.86	95,822.13
OTHER CHANGES	<u>27,027.11</u>	<u>420,168.70</u>	<u>657,632.68</u>
TOTAL INCREASES	11,506,446.91	709,367,829.70	861,734,967.51
<u>DECREASES:</u>			
TAXABLE EMPLOYER DISBURSEMENTS	27,319,856.39	343,239,326.41	384,222,763.35
QUIT NONCHARGE BENEFITS	3,960,541.56	46,734,053.95	51,787,507.26
OTHER DECREASES	94,237.89	(3,464,146.88)	(4,596,184.94)
OTHER NONCHARGE BENEFITS	<u>1,179,150.21</u>	<u>17,099,405.76</u>	<u>20,448,568.99</u>
TOTAL DECREASES	32,553,786.05	403,608,639.24	451,862,654.66
BALANCE AT END OF MONTH/YEAR:			
RESERVE FUND BALANCE	2,186,864,693.07	2,186,864,693.07	1,957,463,280.65
BALANCING ACCOUNT	<u>(676,890,229.27)</u>	<u>(676,890,229.27)</u>	<u>(753,248,007.31)</u>
TOTAL BALANCE (8) (9) (10)	<u><u>1,509,974,463.80</u></u>	<u><u>1,509,974,463.80</u></u>	<u><u>1,204,215,273.34</u></u>

8. This balance differs from the cash balance related to taxable employers of \$1,471,761,580 because of non-cash accrual items.

9. \$2,014,936 of this balance is set up in the Trust Fund in two subaccounts to be used for administration purposes and is not available to pay benefits.

10. \$2,056,799 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

**DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
RECEIPTS AND DISBURSEMENTS STATEMENT
FOR THE MONTH ENDED 12/31/17**

RECEIPTS	-CURRENT ACTIVITY--	--YEAR TO DATE---	PRIOR YEAR TO DATE
TAX RECEIPTS/RFB	\$1,377,005.28	\$514,701,340.31	\$603,623,252.20
SOLVENCY	319,829.25	168,379,457.22	238,918,568.13
ADMINISTRATIVE FEE	73.07	1,535.46	2,248.51
ADMINISTRATIVE FEE - PROGRAM INTEGRITY	4,920.37	2,904,832.60	0.00
UNUSED CREDITS	172,030.28	6,027,421.59	4,960,192.60
GOVERNMENTAL UNITS	838,115.65	11,988,922.24	13,736,097.77
NONPROFITS	860,452.42	13,314,619.65	14,031,790.06
REDA PAID	0.00	0.00	30.20
INTERSTATE CLAIMS (CWC)	326,991.12	4,746,858.61	5,957,611.36
ERROR SUSPENSE	(4,851.27)	(14,498.52)	14,166.42
FEDERAL PROGRAMS RECEIPTS	229,711.23	390,074.57	1,916,520.91
OVERPAYMENT COLLECTIONS	1,426,020.39	23,938,378.55	29,526,369.21
FORFEITURES	31,391.00	466,067.69	1,002,655.37
BENEFIT CONCEALMENT INCOME	43,842.34	977,018.37	1,474,527.40
EMPLOYER REFUNDS	(642,113.78)	(6,013,344.92)	(6,371,363.36)
COURT COSTS	40,622.48	588,523.09	649,763.12
INTEREST & PENALTY	273,212.87	4,126,647.84	3,875,828.43
PENALTY-PROGRAM INTEGRITY	63,881.40	1,279,370.97	812,851.23
SPECIAL ASSESSMENT FOR INTEREST	4,303.77	54,508.84	44,218.19
INTEREST EARNED ON U.I. TRUST FUND BALANCE	8,296,117.69	29,729,533.01	21,833,381.51
MISCELLANEOUS	3,641.61	101,404.58	220,433.60
TOTAL RECEIPTS	\$13,665,197.17	\$777,688,671.75	\$936,229,142.86
DISBURSEMENTS			
CHARGES TO TAXABLE EMPLOYERS	\$28,492,915.20	\$361,718,456.85	\$407,476,161.35
NONPROFIT CLAIMANTS	795,480.82	12,071,560.80	12,503,692.29
GOVERNMENTAL CLAIMANTS	992,775.04	11,281,548.43	12,210,863.53
INTERSTATE CLAIMS (CWC)	346,529.63	4,176,786.01	5,284,439.86
QUITS	3,960,541.56	46,734,053.95	51,787,507.26
OTHER NON-CHARGE BENEFITS	1,221,333.14	17,359,688.39	20,688,524.45
CLOSED EMPLOYERS	4,926.70	(37,155.44)	(7,015.52)
ERROR CLEARING ACCOUNT	0.00	0.00	0.00
FEDERAL PROGRAMS			
FEDERAL EMPLOYEES (UCFE)	154,966.51	1,514,892.45	1,725,077.99
EX-MILITARY (UCX)	63,482.11	758,787.50	1,300,582.17
TRADE ALLOWANCE (TRA/TRA-NAFTA)	249,730.92	3,422,424.25	5,473,457.57
DISASTER UNEMPLOYMENT (DUA)	0.00	0.00	(998.52)
2003 TEMPORARY EMERGENCY UI (TEUC)	(2,487.41)	(27,328.18)	(22,901.26)
FEDERAL ADD'L COMPENSATION \$25 ADD-ON (FAC)	(27,451.28)	(472,220.20)	(510,411.22)
FEDERAL EMERGENCY UI (EUC)	(281,876.04)	(4,444,024.13)	(5,637,574.71)
FEDERAL EXTENDED BENEFITS (EB)	(25,918.78)	(327,919.17)	(365,452.45)
FEDERAL EMPLOYEES EXTENDED BEN (UCFE EB)	(212.92)	(874.86)	(340.65)
FEDERAL EX-MILITARY EXTENDED BEN (UCX EB)	(1,267.03)	(9,259.12)	(7,828.88)
INTERSTATE CLAIMS EXTENDED BENEFITS (CWC EB)	(543.14)	(3,883.48)	(6,155.57)
INTEREST & PENALTY	347,519.78	4,133,208.71	3,928,928.57
PROGRAM INTEGRITY	59,147.71	4,192,976.83	747,368.09
SPECIAL ASSESSMENT FOR INTEREST	0.00	57,297.94	45,078.10
COURT COSTS	35,795.41	588,840.00	663,118.78
ADMINISTRATIVE FEE TRANSFER	132.09	1,590.55	2,289.22
FEDERAL WITHHOLDING	50,838.00	83,985.78	(37,579.78)
STATE WITHHOLDING	(596,606.00)	(62,697.22)	25,596.63
REED ACT & ARRA SPECIAL ADMIN EXPENDITURES	0.00	0.00	139,226.56
STC IMPLEMENT/IMPROVE & PROMOTE/ENROLL EXP	0.00	4,098.48	353,322.12
FEDERAL LOAN REPAYMENTS	(2,331.29)	(67,696.86)	(95,822.13)
TOTAL DISBURSEMENTS	\$35,837,420.73	\$462,646,138.26	\$517,663,153.85
NET INCREASE(DECREASE)	(22,172,223.56)	315,042,533.49	418,565,989.01
BALANCE AT BEGINNING OF MONTH/YEAR	\$1,503,041,820.97	\$1,165,827,063.92	\$747,261,074.91
BALANCE AT END OF MONTH/YEAR	\$1,480,869,597.41	\$1,480,869,597.41	\$1,165,827,063.92

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
CASH ANALYSIS
FOR THE MONTH ENDED December 30, 2017

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BEGINNING U.I. CASH BALANCE	\$1,493,914,673.65	\$1,159,159,974.49	\$742,892,575.90
INCREASES:			
TAX RECEIPTS/RFB PAID	1,377,005.28	514,701,340.31	603,623,252.20
U.I. PAYMENTS CREDITED TO SURPLUS	725,237.87	176,085,877.86	248,646,878.51
INTEREST EARNED ON TRUST FUND	8,296,117.69	29,729,533.01	21,833,381.51
FUTA TAX CREDITS	2,331.29	67,696.86	95,822.13
TOTAL INCREASE IN CASH	<u>10,400,692.13</u>	<u>720,584,448.04</u>	<u>874,199,334.35</u>
TOTAL CASH AVAILABLE	<u>1,504,315,365.78</u>	<u>1,879,744,422.53</u>	<u>1,617,091,910.25</u>
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	27,319,856.39	343,239,326.41	384,222,763.35
BENEFITS CHARGED TO SURPLUS	<u>5,233,929.66</u>	<u>64,739,417.91</u>	<u>73,216,623.73</u>
TOTAL BENEFITS PAID DURING PERIOD	32,553,786.05	407,978,744.32	457,439,387.08
REED ACT EXPENDITURES	0.00	0.00	139,226.56
SHORT-TIME COMPENSATION EXPENDITURES	<u>0.00</u>	<u>4,098.48</u>	<u>353,322.12</u>
ENDING U.I. CASH BALANCE (11) (12) (13)	<u><u>1,471,761,579.73</u></u>	<u><u>1,471,761,579.73</u></u>	<u><u>1,159,159,974.49</u></u>

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

12. \$407,608 of this balance was set up in 2015 in the Trust Fund as a Short-Time Compensation (STC) subaccount to be used for Implementation and Improvement of the STC program and is not available to pay benefits.

13. \$2,056,799 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
BALANCING ACCT SUMMARY
FOR THE MONTH ENDED December 30, 2017

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BALANCE AT THE BEGINNING OF THE MONTH/YEAR	(\$718,890,387.02)	(\$798,303,306.16)	(\$919,824,755.63)
INCREASES:			
U.I. PAYMENTS CREDITED TO SURPLUS:			
SOLVENCY PAID	319,829.25	168,379,457.22	238,918,568.13
FORFEITURES	31,391.00	466,067.69	1,002,655.37
OTHER INCREASES	<u>374,017.62</u>	<u>7,240,352.95</u>	<u>8,725,655.01</u>
U.I. PAYMENTS CREDITED TO SURPLUS SUBTOTAL	725,237.87	176,085,877.86	248,646,878.51
TRANSFERS BETWEEN SURPLUS ACCTS (14)	(2,483.51)	(57,939,398.52)	(75,345,460.27)
INTEREST EARNED ON TRUST FUND	8,296,117.69	29,729,533.01	21,833,381.51
FUTA TAX CREDITS	<u>2,331.29</u>	<u>67,696.86</u>	<u>95,822.13</u>
TOTAL INCREASES	9,021,203.34	147,943,709.21	195,230,621.88
DECREASES:			
BENEFITS CHARGED TO SURPLUS:			
QUITS	3,960,541.56	46,734,053.95	51,787,507.26
OTHER NON-CHARGE BENEFITS	1,273,388.10	18,005,363.94	21,429,116.47
MISCELLANEOUS EXPENSE	<u>0.00</u>	<u>0.02</u>	<u>0.00</u>
BENEFITS CHARGED TO SURPLUS SUBTOTAL	5,233,929.66	64,739,417.91	73,216,623.73
REED ACT EXPENDITURES	0.00	0.00	139,226.56
SHORT-TIME COMPENSATION EXPENDITURES	<u>0.00</u>	<u>4,098.48</u>	<u>353,322.12</u>
BALANCE AT THE END OF THE MONTH/YEAR	<u>(715,103,113.34)</u>	<u>(715,103,113.34)</u>	<u>(798,303,306.16)</u>

14. The 10% writeoff for 2017 was \$54 million and is included in this balance. The 10% writeoff shifts employer benefit charges to the balancing account. The 10% writeoff has no effect on receivable balances.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2457/1
CMH/JK/EVM/MD/MP:kjf

2017 ASSEMBLY BILL 482

August 24, 2017 - Introduced by Representatives SARGENT, OHNSTAD, C. TAYLOR, CROWLEY, ZEPNICK, ANDERSON, STUCK, KESSLER, POPE, BERCEAU, ZAMARRIPA, BROSTOFF, SINICKI, SUBECK and BOWEN, cosponsored by Senators JOHNSON, L. TAYLOR and LARSON. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to repeal* 23.33 (1) (jo) 5., 30.50 (10m) (e), 340.01 (50m) (e), 350.01 (10v)
2 (e), 885.235 (1) (d) 5., 939.22 (33) (e), 961.14 (4) (t), 961.41 (1) (h), 961.41 (1m)
3 (h), 961.41 (1q), 961.41 (3g) (e), 961.571 (1) (a) 7., 961.571 (1) (a) 11. e., 961.571
4 (1) (a) 11. k. and L. and 967.055 (1m) (b) 5.; **to renumber** 30.681 (1) (bn) and
5 subchapter VI (title) of chapter 50 [precedes 50.90]; **to renumber and amend**
6 23.33 (4c) (a) 5., 30.681 (1) (d), 108.133 (1) (a), 115.35 (1), 346.63 (1) (d), 350.101
7 (1) (e), 961.01 (14) and 961.34; **to amend** 20.435 (6) (jm), 23.33 (1) (jo) 1., 23.33
8 (4c) (a) 4., 23.33 (4c) (b) 3., 23.33 (4c) (b) 4. a., 23.33 (4c) (b) 4. b., 23.33 (4p) (d),
9 23.33 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3., 23.33 (13) (e), 30.50 (10m) (a),
10 30.681 (1) (b) (title), 30.681 (1) (bn) (title), 30.681 (1) (c), 30.681 (2) (b) (title),
11 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.681 (2) (d) 1. b., 30.684 (4), 30.80 (6) (d),
12 49.148 (4) (a), 49.45 (23) (g) 1. e., 49.79 (1) (b), 50.56 (3), 51.49 (1) (d), 59.54 (25)
13 (title), 59.54 (25) (a) (intro.), 66.0107 (1) (bm), 111.35 (2) (e), 146.40 (1) (bo),
14 146.81 (1) (L), 146.997 (1) (d) 18., 289.33 (3) (d), 340.01 (50m) (a), 343.10 (5) (a)

ASSEMBLY BILL 482

1 on how to safely and efficiently produce and handle marijuana products and test
2 marijuana for contaminants.

3 **(5) RULES.** The department shall promulgate rules necessary to administer and
4 enforce this section, including rules relating to the inspection of the plants, facilities,
5 and products of permittees.

6 **(6) PENALTIES.** (a) Any person who violates the requirements under sub. (2) or
7 (3) or any of the requirements established by the rules promulgated under sub. (5)
8 shall be fined not less than \$100 nor more than \$500 or imprisoned not more than
9 6 months or both.

10 (b) In addition to the penalties imposed under par. (a), the department shall
11 revoke the permit of any person convicted of any violation described under par. (a)
12 and not issue another permit to that person for a period of 2 years following the
13 revocation.

14 **SECTION 50.** 108.02 (18r) of the statutes is created to read:

15 108.02 **(18r)** MARIJUANA. "Marijuana" has the meaning given in s. 111.32 (11m).

16 **SECTION 51.** 108.04 (5m) of the statutes is created to read:

17 108.04 **(5m)** DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),
18 "misconduct," for purposes of sub. (5), does not include the employee's use of
19 marijuana off the employer's premises during nonworking hours or a violation of the
20 employer's policy concerning such use, unless termination of the employee because
21 of that use is permitted under s. 111.35.

22 (b) Notwithstanding sub. (5g), "substantial fault," for purposes of sub. (5g), does
23 not include the employee's use of marijuana off the employer's premises during
24 nonworking hours or a violation of the employer's policy concerning such use, unless
25 termination of the employee because of that use is permitted under s. 111.35.

ASSEMBLY BILL 482

1 **SECTION 52.** 108.133 (1) (a) of the statutes is renumbered 108.133 (1) (a) 1. and
2 amended to read:

3 108.133 (1) (a) 1. Notwithstanding s. 108.02 (9), “controlled substance” has the
4 meaning given in 21 USC 802, except as provided in subd. 2.

5 **SECTION 53.** 108.133 (1) (a) 2. of the statutes is created to read:

6 108.133 (1) (a) 2. “Controlled substance” does not include
7 tetrahydrocannabinols, commonly known as “THC,” in any form including
8 tetrahydrocannabinols contained in marijuana, obtained from marijuana, or
9 chemically synthesized.

10 **SECTION 54.** 111.32 (9m) of the statutes is created to read:

11 111.32 (9m) “Lawful product” includes marijuana.

12 **SECTION 55.** 111.32 (11m) of the statutes is created to read:

13 111.32 (11m) “Marijuana” means all parts of the plants of the genus Cannabis,
14 whether growing or not; the seeds thereof; the resin extracted from any part of the
15 plant; and every compound, manufacture, salt, derivative, mixture or preparation of
16 the plant, its seeds or resin, including tetrahydrocannabinols.

17 **SECTION 56.** 111.35 (2) (e) of the statutes is amended to read:

18 111.35 (2) (e) Conflicts with any federal or state statute, rule or regulation.
19 This paragraph does not apply with respect to violations concerning marijuana or
20 tetrahydrocannabinols under 21 USC 841 to 865.

21 **SECTION 57.** 115.35 (1) of the statutes is renumbered 115.35 (1) (a) (intro.) and
22 amended to read:

23 115.35 (1) (a) (intro.) A critical health problems education program is
24 established in the department. The program shall be a systematic and integrated
25 program designed to provide appropriate learning experiences based on scientific

ASSEMBLY BILL 482

1 (am), (c), (d), ~~(e)~~, or (g) on which no evidence was received at the trial on the original
2 charge.

3 **SECTION 204. Nonstatutory provisions.**

4 (1) JOINT LEGISLATIVE COUNCIL STUDY. The joint legislative council shall study
5 the implementation of the marijuana tax and regulation provided under subchapter
6 IV of chapter 139 of the statutes and identify uses for the revenues generated by the
7 tax. The joint legislative council shall report its findings, conclusions, and
8 recommendations to the joint committee on finance no later than 2 years after the
9 effective date of this subsection.

10 **SECTION 205. Initial applicability.**

11 (1) INSURANCE COVERAGE OF MEDICAL USE OF MARIJUANA.

12 (a) For policies and plans containing provisions inconsistent with this act, the
13 treatment of sections 609.83 and 632.895 (16p) of the statutes first applies to policy
14 or plan years beginning on January 1 of the year following the year in which this
15 paragraph takes effect, except as provided in paragraph (b).

16 (b) For policies or plans that are affected by a collective bargaining agreement
17 containing provisions inconsistent with this act, the treatment of sections 609.83 and
18 632.895 (16p) of the statutes first applies to policy or plan years beginning on the
19 effective date of this paragraph or on the day on which the collective bargaining
20 agreement is newly established, extended, modified, or renewed, whichever is later.

21 **SECTION 206. Effective dates.** This act takes effect on the first day of the 6th
22 month beginning after publication, except as follows:

23 (1) The treatment of sections 23.33 (1) (jo) 1. and 5. and (k), (4c) (a) 2g., 3g., 4.,
24 and 5. and (b) 2n., 3., and 4. a. and b., (4p) (d), and (13) (b) 1., 2., and 3. and (e), 30.50
25 (10m) (a) and (e) and (13p), 30.681 (1) (b) (title) and 1g., (bn) (title), (c), and (d) and

ASSEMBLY BILL 482

1 (2) (b) (title) and 1g., (c), and (d) 1. a. and b., 30.684 (4), 30.80 (6) (d), 49.148 (4) (a),
2 49.45 (23) (g) 1. e., 49.79 (1) (b), 51.49 (1) (d), 59.54 (25) (title) and (a) (intro.), 66.0107
3 (1) (bm), 66.0414, 108.02 (18r), 108.04 (5m), 111.32 (9m) and (11m), 111.35 (2) (e),
4 121.02 (1) (L) 7., 289.33 (3) (d), 340.01 (50m) (a) and (e) and (66m), 343.10 (5) (a) 1.
5 and 2., 343.12 (7) (a) 11., 343.16 (2) (b) and (5) (a), 343.30 (1p) and (1q) (h), 343.305
6 (2), (3) (a), (am), (ar) 1., and (b), (5) (b), (d), and (dm), (7) (a), (8) (b) 2. bm. and d., 4m.
7 a., 5. b., and 6. b., (9) (a) 5. a., (am) 5. a. and c., and (d), and (10) (em), 343.307 (1) (d)
8 and (2) (e), 343.31 (1) (am) and (2), 343.315 (2) (a) 2., 5., and 6. and (bm) 2., 343.32
9 (2) (bj), 344.576 (2) (b), 346.63 (1) (b) and (d), (2) (a) 2. and (b) 1. and 2., and (2p),
10 346.65 (2m) (a) and (2q), 349.02 (2) (b) 4., 349.03 (2m), 349.06 (1m), 350.01 (10v) (a)
11 and (e) and (21g), 350.101 (1) (bg), (cg), (d), and (e) and (2) (bg), (c), and (d) 1. and 2.,
12 350.104 (4), 350.11 (3) (d), 885.235 (1) (d) 1. and 5. and (e), (1g) (intro.), (ag), and (cg),
13 (1L), (1m), and (4), 895.047 (3) (a), 905.04 (4) (f), 939.22 (33) (a) and (e) and (39g),
14 940.09 (1) (bg) and (dg), (1g) (bg) and (dg), (1m) (a) and (b), and (2) (a) and (b), 940.25
15 (1) (bg) and (dg), (1m), and (2), 941.20 (1) (bg) and (bm), 961.01 (14), 961.14 (4) (t),
16 961.34, 961.38 (1n) (a), 961.41 (1) (h), (1m) (h), (1q), (1r), and (3g) (c), (d), (e), and (em),
17 961.47 (1), 961.48 (3) and (5), 961.49 (1m) (intro.), 961.571 (1) (a) 7. and 11. (intro.),
18 e., k and L., subchapter VIII of chapter 961, 967.055 (1) (a) and (b), (1m) (b) 1. and
19 5., and (2) (a), and 971.365 (1) (a), (b), and (c) and (2) of the statutes, the renumbering
20 of section 30.681 (1) (bn) of the statutes, the renumbering and amendment of sections
21 108.133 (1) (a) and 115.35 (1) of the statutes, and the creation of sections 30.681 (1)
22 (bn) 2., 108.133 (1) (a) 2., and 115.35 (1) (a) 6. of the statutes take effect on the day
23 after publication.

24

(END)

To: Unemployment Insurance Advisory Council

From: Andy Rubsam

Cc: Janell Knutson

Date: January 18, 2018

Re: Increased criminal penalties for unemployment benefit fraud (2017 AB 710 / 2017 SB 542)

Currently, a person who commits unemployment insurance benefit fraud is subject to several civil and criminal penalties. First, the person must **repay** the overpaid benefits.¹ Second, the person must pay a civil penalty to the Department in the amount of **40% of the overpayment**.² Third, the person is ineligible for future unemployment insurance benefits in an amount equal to 2, 4, or 8 times the weekly benefit rate for each act of concealment.³ The future ineligibility period is for the earlier of **six years** or until the person again files claims for benefits equal to the amount of the future ineligibility.⁴ Fourth, the person may be **criminally prosecuted** for the crime of unemployment fraud.

The Department refers cases of unemployment benefit fraud to prosecution.⁵ Currently, the criminal penalty for unemployment fraud is a \$100 to \$500 fine or up to 90 days in jail, or both for each false statement.⁶ Alternatively, a person may be charged with the crime of theft by fraud for

¹ Under Wis. Stat. § 108.05(d), “A claimant is ineligible to receive benefits for any week in which the claimant conceals wages or hour worked as provided in s. 108.04(11)(b).” A claimant who receives benefits in a week in which they are ineligible for benefits must repay the benefits under Wis. Stat. § 108.22(8).

² Wis. Stat. § 108.04(11)(bh). Of the total 40% penalty, 15% is deposited in the Unemployment Insurance Trust Fund and the remainder (25%) is deposited in the Unemployment Program Integrity Fund.

³ Wis. Stat. § 108.04(11)(be). The 2, 4, or 8 multipliers are for the first, second, and third or more determinations of fraud. For example, a claimant whose weekly benefit rate is \$370 and who conceals work on their weekly claims for 10 weeks is ineligible for future benefits in the amount of \$7,400 if that was the first time the Department determined that the claimant committed unemployment fraud.

⁴ Wis. Stat. § 108.04(11)(bm).

⁵ “The attorney general shall assign at least 0.5 assistant attorney general position to assist in the investigation and prosecution of noncompliance with ch. 108.” Wis. Stat. § 165.066. The Department of Workforce Development’s Unemployment Insurance Division funds this 0.5 AAG position.

⁶ Wis. Stat. § 108.24(1).

committing unemployment benefit fraud.⁷ Under either of these criminal statutes, the trial court may order a defendant to pay restitution to the Department in the amount of the overpaid benefits.

A bill has been introduced in the Legislature to increase the criminal penalties for unemployment insurance benefit fraud. The proposal increases the criminal penalties for unemployment benefit fraud based on the amount of the benefits that the person wrongfully obtains as follows:

If the value of UI benefits fraudulently obtained is:	Claimant is guilty of:	Maximum criminal penalty:⁸
\$2,500 or less	Class A Misdemeanor	Up to \$10,000 fine or imprisonment up to 9 months, or both
More than \$2,500, up to \$5,000	Class I Felony	Up to \$10,000 fine or imprisonment up to 3.5 years, or both
More than \$5,000, up to \$10,000	Class H Felony	Up to \$10,000 fine or imprisonment up to 6 years, or both
More than \$10,000	Class G Felony	Up to \$25,000 fine or imprisonment up to 10 years, or both

This proposal mirrors the proposed increased criminal penalties for unemployment fraud that was introduced last session.⁹ In the 2015 proposed legislation as well as in this version, the proposed amendment to the criminal penalties for unemployment fraud are the same as existing state law for any other theft by fraud. Defendants charged with stealing unemployment benefits may already be charged with crimes that have the same criminal penalties as proposed in the bill.

According to the fiscal estimate provided by the District Attorneys, the bill would result in a slight increase in time and resources because when an offense is charged as a felony, there is at least one additional hearing that prosecutors must prepare for and attend.

⁷ “Whoever does any of the following may be penalized...: Obtains title to property of another person by intentionally deceiving the person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. ‘False representation’ includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.” Wis. Stat. § 943.20(1)(d).

⁸ Wis. Stat. § 939.50(3).

⁹ 2015 AB 533 / 2015 SB 401.

The Department submitted a fiscal estimate for this bill.¹⁰ The bill is not expected to have a fiscal effect on the Unemployment Insurance Trust Fund.¹¹

¹⁰ The fiscal estimate provides: “This law would not directly affect the Division of Unemployment Insurance operations. The Division of Unemployment Insurance would continue to refer fraud cases to prosecution as is currently done. The provisions in the bill are not anticipated to increase the number of investigations or those referred for criminal prosecution. DWD estimates no fiscal effect on operations for the Division of Unemployment Insurance.”

¹¹ The Department does not receive the fines associated with criminal convictions of unemployment fraud, because criminal fines are deposited in the school fund. Wis. Const. art. X, § 2.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4579/1
MED:klm

2017 SENATE BILL 542

November 20, 2017 - Introduced by Senators KAPENGA and CRAIG, cosponsored by Representatives KERKMAN, R. BROOKS, HORLACHER, NEYLON, HUTTON, TUSLER and JACQUE. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT** *to renumber and amend* 108.24 (1); and *to create* 108.24 (1) (b) and
2 (c) of the statutes; **relating to:** criminal penalties for fraud in obtaining
3 unemployment insurance benefits and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

Current law establishes penalties for certain violations under the unemployment insurance (UI) law, including for knowingly making a false statement or representation to obtain any UI benefit payment, for which the penalty is a fine of not less than \$100 nor more than \$500 or imprisonment for not more than 90 days, or both. Current law provides that each such false statement or representation constitutes a separate offense.

This bill instead provides that a person who knowingly makes a false statement or representation to obtain any UI benefit payment: 1) if the value of any benefits obtained does not exceed \$2,500, is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both; 2) if the value of any benefits obtained exceeds \$2,500 but does not exceed \$5,000, is guilty of a Class I felony; 3) if the value of any benefits obtained exceeds \$5,000 but does not exceed \$10,000, is guilty of a Class H felony; or 4) if the value of any benefits obtained exceeds \$10,000, is guilty of a Class G felony. The bill provides that multiple violations may be prosecuted as a single crime.

SENATE BILL 542

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.** 108.24 (1) of the statutes is renumbered 108.24 (1) (a) and amended
2 to read:

3 108.24 (1) (a) Any person who knowingly makes a false statement or
4 representation to obtain any benefit payment under this chapter, either for himself
5 or herself or for any other person, ~~shall be fined not less than \$100 nor more than~~
6 ~~\$500 or imprisoned not more than 90 days, or both; and each such false statement~~
7 ~~or representation constitutes a separate offense. This may be penalized as provided~~
8 ~~in par. (b). Any penalty imposed under par. (b) is in addition to any penalty imposed~~
9 under s. 108.04 (11) (bh).

10 **SECTION 2.** 108.24 (1) (b) and (c) of the statutes are created to read:

11 108.24 (1) (b) Whoever violates par. (a):

12 1. If the value of any benefits obtained does not exceed \$2,500, is subject to a
13 fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

14 2. If the value of any benefits obtained exceeds \$2,500 but does not exceed
15 \$5,000, is guilty of a Class I felony.

16 3. If the value of any benefits obtained exceeds \$5,000 but does not exceed
17 \$10,000, is guilty of a Class H felony.

18 4. If the value of any benefits obtained exceeds \$10,000, is guilty of a Class G
19 felony.

20 (c) In any case involving more than one violation of par. (a), all such violations
21 may be prosecuted as a single crime.

Fiscal Estimate - 2017 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 17-4579/1	Introduction Number SB-542
-----------------------------	-----------------------------------

Description
 criminal penalties for fraud in obtaining unemployment insurance benefits and providing a criminal penalty

Fiscal Effect

State:

- No State Fiscal Effect
- Indeterminate
 - Increase Existing Appropriations
 - Decrease Existing Appropriations
 - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
 - Yes
 - No
- Decrease Costs

Local:

- No Local Government Costs
- Indeterminate
 - 1. Increase Costs
 - 2. Decrease Costs
 - 3. Increase Revenue
 - 4. Decrease Revenue
- Permissive Mandatory
 - Permissive Mandatory
 - Permissive Mandatory
 - Permissive Mandatory
- 5. Types of Local Government Units Affected
 - Towns Village Cities
 - Counties Others
 - School Districts WTCS Districts

Fund Sources Affected

- GPR
 FED
 PRO
 PRS
 SEG
 SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
DWD/ Paul Farnum (608) 266-6496	David Anderson (608) 266-2284	12/1/2017

Fiscal Estimate Narratives

DWD 12/1/2017

LRB Number	17-4579/1	Introduction Number	SB-542	Estimate Type	Original
Description criminal penalties for fraud in obtaining unemployment insurance benefits and providing a criminal penalty					

Assumptions Used in Arriving at Fiscal Estimate

The law would increase criminal penalties for fraud based upon the total dollar amount of fraud committed.

This law would not directly affect the Division of Unemployment Insurance operations. The Division of Unemployment Insurance would continue to refer fraud cases to prosecution as is currently done. The provisions in the bill are not anticipated to increase the number of investigations or those referred for criminal prosecution. DWD estimates no fiscal effect on operations for the Division of Unemployment Insurance.

Long-Range Fiscal Implications

None.

Fiscal Estimate Narratives

DA 12/4/2017

LRB Number	17-4579/1	Introduction Number	SB-542	Estimate Type	Original
Description criminal penalties for fraud in obtaining unemployment insurance benefits and providing a criminal penalty					

Assumptions Used in Arriving at Fiscal Estimate

Current law establishes penalties for certain violations under the unemployment insurance (UI) law, including for knowingly making a false statement or representation to obtain any UI benefit payment, for which the penalty is a fine of not less than \$100 nor more than \$500 or imprisonment for not more than 90 days, or both. Current law provides that each such false statement or representation constitutes a separate offense. This bill instead provides that a person who knowingly makes a false statement or representation to obtain any UI benefit payment: 1) if the value of any benefits obtained does not exceed \$2,500, is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both; 2) if the value of any benefits obtained exceeds \$2,500 but does not exceed \$5,000, is guilty of a Class I felony; 3) if the value of any benefits obtained exceeds \$5,000 but does not exceed \$10,000, is guilty of a Class H felony; or 4) if the value of any benefits obtained exceeds \$10,000, is guilty of a Class G felony. The bill provides that multiple violations may be prosecuted as a single crime.

District Attorneys indicated there would be a slight increase in time and resources as a result of this legislation because when an offense is elevated to a felony there is at least one additional hearing for which prosecutors must prepare and attend. The fiscal impact is indeterminate.

Long-Range Fiscal Implications

The long-range fiscal implications of this legislation on district attorney offices are indeterminate.

Fiscal Estimate - 2017 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 17-4579/1	Introduction Number SB-542
-----------------------------	-----------------------------------

Description
 criminal penalties for fraud in obtaining unemployment insurance benefits and providing a criminal penalty

Fiscal Effect

State:

- No State Fiscal Effect
- Indeterminate
 - Increase Existing Appropriations
 - Decrease Existing Appropriations
 - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
 - Yes No
- Decrease Costs

Local:

- No Local Government Costs
 - Indeterminate
 - 1. Increase Costs
 - Permissive Mandatory
 - 2. Decrease Costs
 - Permissive Mandatory
 - 3. Increase Revenue
 - Permissive Mandatory
 - 4. Decrease Revenue
 - Permissive Mandatory
5. Types of Local Government Units Affected
- Towns Village Cities
 - Counties Others
 - School Districts WTCS Districts

Fund Sources Affected

Affected Ch. 20 Appropriations

GPR
 FED
 PRO
 PRS
 SEG
 SEGS

Agency/Prepared By DOC/ Peter James (608) 240-5422	Authorized Signature Donald Friske (608) 240-5056	Date 11/22/2017
--	---	---------------------------

Fiscal Estimate Narratives

DOC 11/22/2017

LRB Number	17-4579/1	Introduction Number	SB-542	Estimate Type	Original
Description criminal penalties for fraud in obtaining unemployment insurance benefits and providing a criminal penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, individuals who are convicted of knowingly making false statements or representation in order to obtain unemployment insurance (UI) benefits are subject to a \$500 maximum fine or 90 days in jail, or both. Current law also provides that each false statement or representation constitutes a separate offense.

This bill changes the penalty structure based on the amount of money that a person fraudulently receives in UI payments. Persons that fraudulently receive payments less than \$2,500 are subject to a maximum \$10,000 fine or 90 days in jail. Persons that fraudulently receive payments between \$2,500 and \$5,000 are guilty of a Class I felony; between \$5,000 and \$10,000 are guilty of a Class H felony; and, over \$10,000 are guilty of a class G felony. This bill also provides that multiple violations can be charged as a single crime.

The Department of Workforce Development's (DWD) 2016 Annual Report indicates that 36 convictions resulted from UI fraud cases referred in 2015 and three from cases referred in 2016. The dollar amounts of fraudulently received benefits in each case is unknown to DOC and thus the breakdown of potential maximum sentencing is unknown.

The Department of Corrections (DOC) is unable to determine the fiscal impact of this bill. The DOC cannot predict the sentencing habits of judges and thus the number of people likely to be sentenced under the provisions of this bill.

State costs could increase if offenders of this new statute are convicted of this crime and sentenced to prison. The average FY16 annual cost for an inmate in a DOC institution is approximately \$32,300. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$5,700 based on FY16 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

State costs could also increase if offenders of this new statute are convicted of this crime and sentenced to probation. If there is a large increase in the number of offenders placed on probation or extended supervision, additional community corrections funding and/or positions may be necessary to handle the population. The average FY16 annual cost to supervise one offender is approximately \$3,000.

County jails could experience increased or decreased costs, as offenders may be sentenced to jail instead of probation, or to prison instead of jail. The average FY16 annual cost to jail inmates is \$18,800.

Long-Range Fiscal Implications