



Unemployment Insurance Advisory Council

Meeting Agenda

May 20, 2025, 10 a.m. – 4 p.m.

Department of Workforce Development
201 E. Washington Avenue
Madison, Wisconsin
GEF-1, Room H103

The public may attend by teleconference.

Phone: 415-655-0003 or 855-282-6330 (toll free) or [WebEx](#)
Meeting number (access code): 2663 176 5591 Password: DWD1

Materials: <https://dwd.wisconsin.gov/uibola/uiac/meetings.htm>

1. Call to order and introductions
2. Approval of minutes of the April 17, 2025 UIAC meeting
3. Department update
4. Quarterly report on UI information technology systems ([1/1/2025 – 3/31/2025](#))
5. Trust Fund update – Janell Knutson
6. Legislation update
 - Requests for information from employers about unemployment insurance claims ([AB 146](#) / [SB 151](#))
 - Various changes to the unemployment insurance law and federal Reemployment Services and Eligibility Assessment grants (reemployment assistance; work search; RESEA grants – [AB 164](#) / [SB 197](#))
 - Various changes to the unemployment insurance law and requiring approval by the Joint Committee on Finance of certain federally authorized unemployment benefits (misconduct; work registration; work search audits; Joint Committee on Finance notification - [AB 167](#) / [SB 198](#))
 - Various changes to the unemployment insurance law (identity proofing; statute of limitations for CARES Act fraud; educational materials; assistance call center; database comparisons; fraud detection - [AB 168](#) / [SB 200](#))

<https://dwd.wisconsin.gov/uibola/uiac/>

- Various changes to the unemployment insurance law (suitable work; work search; overpayment recovery - [AB 169](#) / [SB 196](#))
7. Department proposals to amend the unemployment insurance law
 - D25-01 – Electronic Communication and Filing
 - D25-02 – Worker Misclassification Penalties
 - D25-03 – Repeal Waiting Week
 - D25-04 – Increase Maximum Weekly Benefit Amount
 - D25-05 – Increase and Index Maximum Wage Cap
 - D25-06 – Amend SSDI Disqualification
 - D25-07 – Repeal UI Drug Testing
 - D25-08 – Misconduct
 - D25-09 – Repeal Substantial Fault
 - D25-10 – Suitable Work
 - D25-11 – Quit Exception for Relocating Spouse
 - D25-12 – Repeal Work Search and Work Registration Waivers from Statute
 8. Labor and Management proposals to amend the unemployment insurance law
 9. Research requests
 10. 2025-2026 UIAC timeline
 11. Future meeting dates: June 19, July 17, August 21, September 18
 12. Adjourn

Notice

- ❖ The Council may take up action items at a time other than that listed.
- ❖ The Council may not address all agenda items or follow the agenda order.
- ❖ The Council members may attend the meeting by teleconference or videoconference.
- ❖ The employee or employer representative members of the Council may convene in closed session at any time during the meeting to deliberate any matter for potential action or items listed in this agenda, under Wis. Stat. § 19.85(1)(ee). The Council may then reconvene again in open session after the closed session.
- ❖ This location is accessible to people with disabilities. If you need an accommodation, including an interpreter or information in an alternate format, please contact the UI Division Bureau of Legal Affairs at 608-266-0399 or dial 7-1-1 for Wisconsin Relay Service.

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

Offices of the State of Wisconsin Department of Workforce Development

201 E. Washington Avenue, GEF 1, Madison, WI

April 17, 2025

Held In-Person and Via Teleconference

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

Members: Janell Knutson (Chair), Sally Feistel, Corey Gall, Shane Griesbach, Kent Miller, David Bohl, Mike Gotzler, Scott Manley, Jeff Peterson, and Susan Quam.

Department Staff: Jim Chiolino (UI Division Administrator), Jason Schunk (UI Deputy Division Administrator), Andy Rubsam, Darren Magee, Mike Myszewski, Shashank Partha, Jeff Laesch, Pam Neumann, Robert Usarek, Ashley Gruttke, Lee Sensenbrenner, William Kelly (Deputy Legal Counsel), and Joe Brockman.

Members of the Public: Victor Forberger (Attorney, Wisconsin UI Clinic), Mary Beth George (Office of Representative Christine Sinicki), and Jodi Jensen (Wisconsin Transportation Builders Association).

1. Call to Order and Introductions

Ms. Knutson called the Unemployment Insurance Advisory Council to order at 10:10 a.m. under the Wisconsin Open Meetings Law. Attendees introduced themselves in turn. Ms. Knutson acknowledged the department staff in attendance.

2. Approval of Minutes of the March 20, 2025, UIAC Meeting

Motion by Ms. Feistel, second by Mr. Manley, to approve the minutes of the March 20, 2025, meeting without correction. Vote was taken by voice vote and passed unanimously.

3. Department Updates

Mr. Chiolino reported on DWD's initiatives to support fired federal workers and other displaced professionals, including a series of 8 virtual job fairs, a new online federal worker portal, and additional resources.

Ms. Feistel asked how people were made aware of these initiatives. Mr. Chiolino answered that there were press releases, social media posts, news stories, and mentioned that the portal is still available on the DWD website even though the job fairs are wrapping up.

4. Trust Fund Update

Mr. Partha reported the Trust Fund highlights based on the March 31, 2025 Financial Statements. Benefit payments through March 2025 decreased by \$7.1 million or 5.4% (when compared to last year). Tax receipts through March 2025 declined by \$2.8 million or 5% (when compared to last year). The UI Trust Fund balance was over \$1.8 billion, which is an increase of 16.3% (when compared to last year). Interest earned on the UI Trust Fund is received quarterly.

Mr. Partha also reported that the quarterly yield for the UI Trust Fund was about 3.26% for the period 01/01/25-03/31/25.

5. Legislation Update

Requests for information from employers about unemployment insurance claims (AB 146 / SB 151)

Ms. Knutson reported that the department has been in contact with Sen. Hutton, a cosponsor of this bill, but he was unable to attend this meeting and has not provided any correspondence. Mr. Rubsam stated that there has not been a hearing on this bill. He explained that this bill would require the department to give employers no less than 12 business days to respond to initial requests for information about benefit claims. Currently, there are shorter response timeframes to allow for timeliness of processing benefit claims. Mr. Rubsam stated that there are federal metrics for timeliness.

Ms. Knutson advised that the department is currently working on the employer portal project which will allow employers to receive electronic notice through the portal, but currently the department mails these requests. She explained that employers can currently respond to these initial requests for information about benefit claims and certain other forms through the online SIDES system.

Mr. Griesbach asked about the federal requirements related to the timeframe for employers to respond to claims. Mr. Rubsam explained that the federal metrics are not for the employer's time to respond, but the time it takes the department to pay claims. If employers were given 12 business days to respond, it would increase the time taken to pay claims. Ms. Knutson provided one of the federal metrics for timeliness: 80% of issues detected must be resolved by adjudication within 21 days.

Mr. Manley stated that employers want things done quickly but the mail process slows things down.

Ms. Knutson reiterated that the department's work on the employer portal project will include electronic correspondence. She advised that, at this time, employers can sign up for SIDES to electronically respond to forms.

Various changes to the unemployment insurance law and federal Reemployment Services and Eligibility Assessment grants (reemployment assistance; work search; RESEA grants – AB 164 / SB 197)

Mr. Rubsam stated there was a public hearing for this bill on April 10 and on April 15 an executive session was held where it passed. Mr. Rubsam explained this bill has multiple parts: changing the division name and statutory references from "unemployment insurance" to "reemployment assistance;" changing work search and work registration provisions, including requiring claimants to have direct contacts with potential employers as part of their work search actions starting their third week, requiring claimants to submit and keep their résumé posted on the Job Center of Wisconsin website, and requiring reemployment counseling sessions for claimants with less than 3 weeks left of

their claim; requiring the department to provide certain assistance to claimants based on their efforts, skills, and abilities; requiring the department make claimants participate in workshops or training programs if they are likely to exhaust their benefits; and changing the Reemployment Services and Eligibility Assessment (RESEA) program to make it mandatory. Mr. Rubsam explained that the RESEA program is funded by US DOL grants to states to provide assistance to people trying to find jobs. The department already participates in the program, which is currently voluntary for claimants. Mr. Rubsam stated that fiscal estimates are not currently available but will be provided at a future meeting.

Various changes to the unemployment insurance law and requiring approval by the Joint Committee on Finance of certain federally authorized unemployment benefits (misconduct; work registration; work search audits; Joint Committee on Finance notification - AB 167 / SB 198)

Mr. Rubsam reported there was a public hearing for this bill on April 9 and an executive session is being held April 17. Mr. Rubsam explained this bill makes misconduct provisions more specific than those currently assessed under *Boynton Cab Co. v. Neubeck*, 237 Wis. 2d 636, 640 N.W.2d 636, 640 (1991). He stated that the bill removes the current requirement that employees have intent to permanently deprive the employer of their property or services, specifies intentional or reckless conduct that causes destruction of an employer's records is also misconduct, and adds theft or unauthorized distribution of confidential or priority information of an employer as misconduct. The bill also provides that misconduct can include absenteeism, tardiness, or both on two or more occasions within 120 days provided the employee has acknowledged the employer's reasonable policy with their signature. Mr. Rubsam explained that this is the department's current policy under the court decision, *Bevco Precision Mfg. Co. v. Wisconsin Lab. & Indus. Rev. Comm'n*, 2024 WI App 54, ¶ 18, 413 Wis. 2d 668, 680, 12 N.W.3d 552, 558. Other parts of the bill include qualification requirements and work search audits. Mr. Rubsam stated the bill requires claimants who reside outside of Wisconsin must register with their local job center, requires the department to verify compliance, and requires the department to conduct random audits for at least 50% of work search actions. Mr. Rubsam explained that the department already conducts random work search audits, but the current law does not require any specific number or percentage.

Mr. Peterson asked who introduced this bill. Mr. Rubsam advised the bill was introduced by Representatives Tucker, Armstrong, Brooks, B. Jacobson, Duchow, Murphy, O'Connor, Penterman and Knodl; and cosponsored by Senator Wimberger.

Mr. Peterson asked what the timeline is for the bill. Mr. Manley replied that there is not a timeline, it is up to the legislature. Mr. Rubsam answered that bills are first introduced in committee, then if approved go to the chambers, then if both chambers approve the same bill, to the Governor.

Ms. Knutson explained that all of these bills, aside from Sen. Hutton's bill (AB 146 / SB 151), have been introduced in previous sessions, some with slight differences.

Various changes to the unemployment insurance law (identity proofing; statute of limitations for CARES Act fraud; educational materials; assistance call center; database comparisons; fraud detection - AB 168 / SB 200)

Mr. Rubsam stated there was a public hearing for this bill on April 9 and an executive session is being held April 17. He explained that this bill requires the department to implement identity proofing measures and identity verification measures that meet the IAL2 and AAL2 national technology standards. Mr. Rubsam indicated that the department's current identity proofing process, through the National Identity Verification Offering, already meets these standards. He reminded the

Council that this process is in partnership with US DOL and allows claimants to verify their identity online through Login.gov or in-person at the Post Office. The bill also adjusts the statute of limitations for certain UI fraud charges. Under current law, the statute of limitations is 6 years with certain exceptions. This bill adds a new exception for fraud in UI benefits or other benefits under the CARES Act programs and extends the statute of limitations to 8 years. This bill also requires the department to compile and provide employers certain information on how the UI program works. The department already does this. The bill also requires the department to provide training materials when employers are new to the UI system, have employer training videos available on the DWD website, and provide training to employers each quarter.

Ms. Knutson explained the department already hosts Friday Fundamentals, Labor Law Clinics and small employer workshops for employers. She explained that employers can access resources on the DWD website, too.

Mr. Rubsam stated this bill would also require the department to operate the UI call center for certain hours based on the call volume. If there is an increase in calls of 100% or more compared to a previous year or if a state of emergency is declared that relates to an increase in UI claims, the department must operate the call center from at least 9 a.m. to 5 p.m. on weekdays. If there is an increase in calls of 300% or more compared to a previous year or if a state of emergency is declared that relates to an increase in UI claims, the department must operate the call center with evening hours after 5 p.m. and on weekends. Mr. Rubsam provided the current Help Center hours: Monday, Tuesday, Wednesday, and Friday: 7:30 a.m. – 4:30 p.m. and Thursday: 8:00 a.m. – 3:15 p.m. He noted that the Help Center is busiest on Mondays and Tuesdays. Mr. Rubsam described the database comparison provisions of the bill, which require the department to compare state and national record databases against UI claimants for the purpose of fraud detection. Mr. Rubsam explained that the department already conducts various crossmatches, such as against death databases, the National Directory of New Hires, and inmate records. Ms. Knutson specified that the Fraud Report has more information about the department's crossmatches. Mr. Rubsam explained that this bill would also require the department to report any changes to methods used in detecting fraud to the Council, the Governor, and the appropriate legislative committees.

Mr. Gotzler asked what processes are already in place for identity proofing on the front end of a claim. Mr. Rubsam answered that claimants are required to verify their identity online through Login.gov or in-person at the Post Office.

Mr. Rubsam explained that the National Identity Verification Offering is a federally funded program and US DOL initiative, so the funding may stop or cooperation with the Post Office could change. Mr. Rubsam further explained that this bill would make it a state law.

Mr. Gotzler asked for an explanation of Login.gov. Ms. Knutson answered it is an online tool where individuals sign up and prove their identity. She explained that the Social Security Administration uses Login.gov for its users. It is an electronic tool where individuals can verify their identity. Mr. Gotzler asked if the online method is most-used by UI claimants. Mr. Schunk stated that we have not received percentage breakdowns for the number of users who go online versus in-person but mentioned that there are alternative identity verification methods if people need them.

Various changes to the unemployment insurance law (suitable work; work search; overpayment recovery - AB 169 / SB 196)

Mr. Rubsam reported there was a public hearing for this bill on April 9 and an executive session is being held April 17. Mr. Rubsam explained that this bill relates to work search and suitable work provisions and provides that an employer may report to the department when a claimant declines a job interview, cancels or fails to attend a job interview, or does not attend a job interview in that week. The bill allows a claimant to provide proof they tried to promptly reschedule an interview, in which case, the reports could be disregarded by the department. He stated that the bill requires claimants to verify all job offers, job interview offers, and employer recalls to return to work, along with any other offers that require reverification. The bill also requires the department to include information on any such employer reports in the annual fraud report and have that report be submitted to the appropriate legislative committees. He explained that the bill requires the department address any circumstances where claimants do not meet the new work search requirements, including reporting methods for employers. The bill makes statutory changes which provide recovery of overpayments due to fraud are mandatory rather than permissive. Mr. Rubsam explained there are federal laws that are in place and the department already does this.

6. Department Proposals to Amend the Unemployment Insurance Law

Ms. Knutson advised that fiscal estimates are complete and included in members' packets. She noted that D25-07 has been updated to correct editing errors in the description about occupational drug testing and pre-employment drug testing. Ms. Knutson highlighted the note regarding fiscal analysis, that for ease of understanding, each fiscal analysis, with the exception of the change in the weekly earnings cap, is drafted with the assumption each proposal is a standalone change. The interaction is only expected to be significant in two cases – the end of the waiting period and increasing the maximum weekly benefit rate.

7. Labor and Management Proposals to Amend the Unemployment Insurance Law

Ms. Knutson stated that this item was placed on the agenda as an opportunity for Labor and Management to caucus to discuss their proposals.

8. Research Requests

Mr. Rubsam provided details regarding using IRS 1099 data for benefit crossmatches to answer Mr. Manley's prior research request. Mr. Rubsam explained that the IRS data can only be used for tax administration purposes, not benefits.

The IRS has very strict rules about the department's use of federal tax information (FTI). The department cannot use FTI for benefit overpayment recoveries, except as part of the Treasury Offset Program (TOP), as authorized by the IRS.

Mr. Manley asked if the IRS cited any statutory or code provisions in their response. Mr. Rubsam replied that the IRS has cited IRS Pub. 1075.

There were no new research requests from the Council members.

9. 2025-2026 UIAC Timeline

Ms. Knutson stated that the tentative schedule for the 2025-2026 agreed bill cycle is included in members' packets. She highlighted the goal of having proposals completed by June so discussion and agreement on law changes can take place in July.

10. Future Meeting Dates

Ms. Knutson stated that the scheduled future meeting dates are:

- May 15, 2025
- June 19, 2025
- July 17, 2025
- August 21, 2025

11. Closed Caucus/Adjourn

Motion by Mr. Manley, second by Mr. Griesbach, to convene in closed caucus session to deliberate the items on the agenda pursuant to Wis. Stat. § 19.85(1)(ee) and to adjourn from closed caucus. Vote was taken by voice vote and passed unanimously.

The Council went into closed caucus at 10:54 a.m. and the public portion of the meeting was adjourned.



State of Wisconsin

Date: April 30, 2025

To: Members of the Joint Committee on Finance and Joint Committee on Information Policy and Technology

From: Department of Administration Secretary Kathy Blumenfeld *Kathy Blumenfeld*

From: Department of Workforce Development Secretary Amy Pechacek *Amy Pechacek*

Subject: 2021 Wisconsin Act 4 Quarterly Report – First Quarter 2025

Pursuant to 2021 Wisconsin Act 4, under Wis. Stat. s. 108.14(27)(e), this report serves to update you on the progress the Department of Workforce Development (DWD) has made on its project to improve the information technology (IT) systems used for processing and paying claims for unemployment insurance (UI) benefits from January 1 to March 31, 2025. We are pleased to share in this report the progress that DWD has continued to make in its UI modernization efforts.

Unemployment Insurance System Modernization

The Unemployment Insurance (UI) Modernization project is the effort to modernize UI IT systems from a COBOL-based mainframe system to a modern flexible system able to nimbly adapt to changes in the demands on the agency and changes in UI program requirements. The goal of this project is to create a more modern, maintainable, sustainable, and adaptable system to meet current and evolving UI needs. Over time, the project will entirely replace the existing, antiquated mainframe, which is difficult to reprogram to meet changes in state or federal policy and to retain staffing resources knowledgeable in COBOL programming.

The future UI system will provide end-to-end services to DWD customers (claimants and employers) in a timely manner. DWD staff will be able to administer programs inclusively and efficiently with modern online tools.

State and Local Fiscal Recovery Funds (SLFRF) under American Rescue Plan Act (ARPA)

\$ 80,828,962.00	Allocation
\$64,637,312	Expended + Committed

Completed UI modernization efforts, include:

- Artificial Intelligence augmentation and fraud screen tool advancements;
- A cloud-based omni-channel contact center;

- Virtual customer service agents that are available after business hours to answer common questions in English and Spanish;
- An online chatbot that can answer common questions in English, Spanish, and Hmong;
- Fraud detection through LexisNexis and National Association of State Workforce Agencies' Integrity Data Hub;
- An online filing process and document upload capability that uses AI to enter data instead of manual data entry;
- Secure online messaging with adjudicators;
- Mobile phone friendly design for claimant portal with text alerts;
- Translation of the UI application into plain language;
- A dashboard showing initial and weekly claims by county;
- An adjudication scheduler;
- ID proofing;
- Knowledge base tool implementation; and
- Accessibility assessments.

Employer Portal

The goal of this modernization project is to create a state-of-the-art, web-based and mobile solution that modernizes the current employer portal with added functionality to improve communication between DWD and its customers for tax and wage reporting, employer information and support, claims verification questions, and appeal activities. The features in the new employer portal will include secure messaging and document sharing, online form requests, detailed claims tracking/due dates, and enhanced account access capabilities. These modern features will help Wisconsin employers maintain efficiency and flexibility, in a user-friendly format.

The implementation plan takes into consideration mandatory reporting timelines and overall customer service. This project is planned for release in November 2025 in the following two phases:

- An initial release to include the employer current functionality with enhancements, such as employer registration, submission of quarterly tax and wage reporting, initial secure messaging options, and initial dashboards for employers and staff.
- A second release to expand the of the collection of information that currently obtained through physical forms and other non-digital methods, administrative tools to increase flexibility on the forms and data collected electronically, and enhanced collection and appeals online processing.

During this quarter, DWD and its vendor continued the design and development for core components of the modern employer portal. Development work focused on the following efforts:

- Continued building and refinement of the foundational system configurations, baseline security, and infrastructure to support. The foundational components must be scalable and adaptable to the increasing complexity of the developing system.
- Continued development of the interface connection points between the new portal and the existing sources of information. This is critical groundwork for the integration of the employer portal with the other UI IT systems to ensure employers have access to timely and accurate information.
- Visual designs that update the look and feel of the layout and functionality for landing pages, dashboards, and messaging featured to ensure efficient display and use of the information.
- Application development has focused on enhancing the initially designed registration process, initial work on secure messaging that will allow employers to securely communicate with UI staff, initial tax and wage reporting features, and resolving items or bugs that have been identified through testing.

- User testing has continued with resolution of features that were not working as defined in requirements.
- Discovery sessions to define how best to support electronic submission of Work-Share materials through the portal. [Work-Share](#) avoids layoffs, allowing workers to remain employed & employers to retain trained staff during times of reduced business activity.

UI Dashboard

Initially released in May 2022, the UI statistics dashboard provides information on UI claims filed, benefits paid, adjudication, appeals, and help center call metrics. Metrics are updated each Thursday, making up-to-date current and historical UI data available to the public.

DWD has continued to enhance its data visualizations to meet all the needs of the agency. The most recent update, released last quarter, provides an internal Demographic Dashboard that reports claimants' demographic information for various Unemployment Insurance (UI) functions for the regular UI program. Each of the modules show the count of underlying functions by demographic characteristics. Demographic Dashboard information is available only to internal resources due to privacy and security requirements of the Unemployment Insurance program.

COBOL-based UI System Replacement

DWD launched its comprehensive overhaul of the outdated COBOL-based UI system in September 2021 through a contract with Madison-based Flexion, which concluded in early July 2024. With Flexion, DWD established a secure cloud infrastructure, implemented additional security protocols, identified dependencies within the mainframe to avoid customer disruptions, and developed a benefits calculation engine that accounts for many of the complex rules associated with Wisconsin's UI eligibility requirements.

The department is now moving toward the build-out, integration, testing, and deployment of a fully modern UI system with Google Public Sector (GPS). Whereas the work with Flexion focused on building the foundation of the benefit calculation, payment processing, and employer allocation code, the discovery completed through GPS addressed all aspects of the UI IT system: benefits payments, employer portal, adjudication and appeals, tax and wage reporting, quality assurance, and correspondence. Discovery occurred over a 26 week period to address all aspects of the UI IT system and revealed the complexity of the work needed to complete full development of all six modules resulting in two proposed roadmaps with a focus on the application language. Relevant to Act 4, under both roadmaps, the information technology systems used for processing and paying claims for benefits is anticipated to be completed late in 2025. Both roadmaps were developed with the premise that custom development would meet all functional needs of the program and fully transition from the mainframe.

Given the complexity and associated timeframes with this approach, GPS is exploring other technology that could be used to accelerate development of code and deliver performance features that continue Wisconsin's leadership in UI customer service.

The team has spent the first quarter of 2025 evaluating the proposals provided by GPS. Additional discovery will be continuing to determine whether refactoring the existing code into a more modern coding language is feasible given the complexity of the system.

We hope you find this information helpful. We will provide the next quarterly update on the UI modernization project to you in July 2025. In the meantime, please do not hesitate to contact us with questions.



2025 ASSEMBLY BILL 146

March 17, 2025 - Introduced by Representatives MAXEY, ARMSTRONG, BROOKS, DITTRICH, FRANKLIN, GUNDRUM, KAUFERT, KNODL, MELOTIK, MURPHY, MURSAU, O'CONNOR and SPIROS, cosponsored by Senators HUTTON, NASS, TOMCZYK and KAPENGA. Referred to Committee on Workforce Development, Labor, and Integrated Employment.

1 **AN ACT** *to amend* 108.09 (1) of the statutes; **relating to:** requests for
2 information from employers about unemployment insurance claims.

Analysis by the Legislative Reference Bureau

Under current rules of the Department of Workforce Development, in order to determine unemployment insurance (UI) benefit claims, DWD may require employers to provide information about claimants' employment separations, dates of work, wages and other payments, and other issues that may be disqualifying. This bill requires DWD to allow an employer no less than 12 business days to respond to an initial request for information about a UI benefit claim.

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

3 **SECTION 1.** 108.09 (1) of the statutes is amended to read:
4 108.09 (1) **FILING.** Claims for benefits shall be filed pursuant to department
5 rules. Each employer that is notified of a benefit claim shall promptly inform the
6 department in writing as to any eligibility question in objection to such claim
7 together with the reasons for the objection. The department shall allow an

ASSEMBLY BILL 146**SECTION 1**

1 employer no less than 12 business days to respond to an initial request from the
2 department for information in response to a benefit claim. The department may
3 also obtain information from the employee concerning the employee's eligibility,
4 employment or wages.

5 **SECTION 2. Initial applicability.**

6 (1) This act first applies to requests for information related to claims filed for
7 the week beginning on or after the effective date of this subsection.

8 (END)



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-1535/1

MED:skw

2025 ASSEMBLY BILL 164

April 8, 2025 - Introduced by Representatives B. JACOBSON, SNYDER, DALLMAN, DUCHOW, GREEN, GUNDRUM, KNODL, KREIBICH, NEDWESKI, MURPHY, O'CONNOR, WICHGERS, WITTKE and ALLEN, cosponsored by Senator JACQUE. Referred to Committee on Public Benefit Reform.

1 **AN ACT** *to renumber and amend* 108.04 (2) (a) 4., 108.04 (15) (a) 2. and 108.13
2 (4) (a) 4.; *to consolidate, renumber and amend* 108.04 (15) (a) (intro.) and
3 1.; *to amend* 40.02 (22) (b) 3., 40.65 (5) (b) 2., 49.147 (3) (ac) 2., 49.163 (3) (a)
4 3. c., 71.67 (7) (title), 105.01 (1) (b) 1., 105.115 (2) (b), 105.115 (2) (c), 105.115
5 (3) (a) 1., 105.115 (4) (b) 1., 105.115 (4) (b) 3., 106.38 (3) (c) 3., 108.04 (2) (a) 3.,
6 108.04 (12) (b), 108.14 (1), 108.141 (1) (b) 3., 108.142 (1) (h) 3., 108.19 (1m),
7 111.39 (4) (c), 230.43 (4), 230.85 (3) (d) and 779.01 (2) (am); *to repeal and*
8 *recreate* chapter 108 (title); *to create* 15.223 (2), 108.01 (2m), 108.013, 108.02
9 (21r), 108.04 (2) (a) 4. c., 108.04 (2) (a) 5., 108.04 (15) (a) 2. b., 108.04 (15) (am)
10 and (ao) and 108.14 (8o) of the statutes; **relating to:** various changes to the
11 unemployment insurance law and federal Reemployment Services and
12 Eligibility Assessment grants.

ASSEMBLY BILL 164***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:

Program name change

The bill changes references in the statutes to “unemployment insurance” to “reemployment assistance” and requires the program and its benefits to be known as reemployment assistance. The bill also requires DWD to have a division known as the Division of Reemployment Assistance and requires the reemployment assistance law to be administered by that division.

General qualifying requirements

Under current law, a claimant for UI benefits is generally required to 1) register for work, 2) be able to work and available for work, and 3) conduct a work search for each week in order to remain eligible. A claimant is required to conduct at least four work search actions each week, and DWD may require, by rule, that an individual conduct more than four work search actions per week. Finally, if a claimant is claiming benefits for a week other than an initial week, the claimant must provide information or job application materials that are requested by DWD and participate in a public employment office workshop or training program or in similar reemployment services required by DWD.

The bill does the following:

1. Requires, for the third and subsequent weeks of a claimant’s benefit year, that at least two of the required weekly work search actions be direct contacts with potential employers.
2. Requires a claimant who resides in this state, for each week other than an initial week, to submit and keep posted on the DWD’s job center website a current resume.
3. Requires, when a claimant is claiming benefits with less than three weeks of benefits left, that the claimant complete a reemployment counseling session.

Additionally, current law allows DWD to use information or job application materials described above to assess a claimant’s efforts, skills, and ability to find or obtain work and to develop a list of potential opportunities for a claimant to obtain suitable work. However, current law provides that a claimant who otherwise satisfies the required weekly work search requirement is not required to apply for any specific positions on the list of potential opportunities in order to satisfy the work search requirement. The bill requires, instead of allows, DWD to provide this assistance. The bill also repeals the language in current law providing that a claimant who otherwise satisfies the weekly work search requirement is not required to apply for specific positions provided by DWD and requires DWD to provide each claimant with at least four potential opportunities each week, one or more of which may be opportunities with a temporary help company.

Finally, current law allows DWD to require a claimant to participate in a

ASSEMBLY BILL 164**SECTION 1**

public employment office workshop or training program. The bill provides that DWD must require a claimant to participate in a public employment office workshop or training program if the claimant is likely to exhaust regular UI benefits. DWD may also require other claimants to participate in a public employment office workshop or training program, but must prioritize claimants more likely to have difficulty obtaining reemployment.

Reemployment Services and Eligibility Assessment grants

Under federal law, the United States Department of Labor (USDOL) operates the Reemployment Services and Eligibility Assessment (RESEA) program, whereby grants are awarded to states to provide reemployment services to claimants. Participation in the RESEA program is voluntary and requires that a state submit a state plan to USDOL that outlines how the state intends to conduct a program of reemployment services and eligibility assessments.

The bill requires that DWD act to continue to participate in the RESEA program and requires DWD to provide certain RESEA services to all UI claimants.

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.** 15.223 (2) of the statutes is created to read:

2 15.223 (2) DIVISION OF REEMPLOYMENT ASSISTANCE. There is created in the
3 department of workforce development a division of reemployment assistance.

4 **SECTION 2.** 40.02 (22) (b) 3. of the statutes is amended to read:

5 40.02 (22) (b) 3. Unemployment insurance or reemployment assistance
6 benefits.

7 **SECTION 3.** 40.65 (5) (b) 2. of the statutes is amended to read:

8 40.65 (5) (b) 2. Any unemployment insurance or reemployment assistance
9 benefit payable to the participant because of his or her work record.

10 **SECTION 4.** 49.147 (3) (ac) 2. of the statutes is amended to read:

ASSEMBLY BILL 164**SECTION 4**

1 49.147 (3) (ac) 2. State ~~and federal unemployment~~ reemployment assistance
2 contributions or federal unemployment taxes.

3 **SECTION 5.** 49.163 (3) (a) 3. c. of the statutes is amended to read:

4 49.163 (3) (a) 3. c. State reemployment assistance contributions and federal
5 unemployment insurance ~~contributions or~~ taxes, if any.

6 **SECTION 6.** 71.67 (7) (title) of the statutes is amended to read:

7 71.67 (7) (title) WITHHOLDING FROM ~~UNEMPLOYMENT COMPENSATION~~
8 ~~INSURANCE~~ REEMPLOYMENT ASSISTANCE.

9 **SECTION 7.** 105.01 (1) (b) 1. of the statutes is amended to read:

10 105.01 (1) (b) 1. The person employing the individuals in addition to wages or
11 salaries pays federal social security taxes, state reemployment assistance
12 contributions, and federal unemployment ~~contributions or~~ taxes, carries worker's
13 compensation insurance as required by state law, and maintains liability insurance
14 covering the acts of its employees while rendering services to, for or under the
15 direction of a 3rd person; and

16 **SECTION 8.** 105.115 (2) (b) of the statutes is amended to read:

17 105.115 (2) (b) A statement of the employment status of the home care worker,
18 specifically, whether the home care worker is an employee of the home care
19 placement agency or of the home care consumer or is an independent contractor
20 and a statement identifying which party is responsible for paying the wages or
21 salary of the home care worker, paying federal social security taxes and state
22 reemployment assistance contributions and federal unemployment ~~contributions or~~

ASSEMBLY BILL 164**SECTION 8**

1 taxes with respect to the home care worker, and procuring worker's compensation
2 or liability insurance covering injury to the home care worker.

3 **SECTION 9.** 105.115 (2) (c) of the statutes is amended to read:

4 105.115 (2) (c) A statement that, notwithstanding the employment status of
5 the home care worker specified in the notice, the home care consumer may be
6 determined to be the employer of the home care worker for purposes of certain state
7 and federal labor laws and that, if that is the case, the home care consumer may be
8 held responsible for paying the wages or salary of the home care worker, paying
9 federal social security taxes and state reemployment assistance contributions and
10 federal unemployment ~~contributions~~ or taxes with respect to the home care worker,
11 procuring worker's compensation or liability insurance covering injury to the home
12 care worker, and complying with various other state and federal labor laws.

13 **SECTION 10.** 105.115 (3) (a) 1. of the statutes is amended to read:

14 105.115 (3) (a) 1. A statement identifying which party is responsible for
15 paying the wages or salary of the home care worker, paying federal social security
16 taxes and state reemployment assistance contributions and federal unemployment
17 ~~contributions~~ or taxes with respect to the home care worker, and procuring worker's
18 compensation or liability insurance covering injury to the home care worker.

19 **SECTION 11.** 105.115 (4) (b) 1. of the statutes is amended to read:

20 105.115 (4) (b) 1. If the department finds that a home care placement agency
21 has failed to provide a home care consumer with the notice required under sub. (2)
22 and that the home care consumer is liable for the payment of federal social security
23 taxes or state reemployment assistance contributions or federal unemployment

ASSEMBLY BILL 164**SECTION 11**

1 ~~contributions or~~ taxes with respect to the home care worker, for the provision of
2 worker's compensation or liability insurance covering injury to the home care
3 worker, for the payment of any fine or penalty imposed on the home care consumer
4 for noncompliance with any state or federal labor law with respect to the home care
5 worker, or for any injury to the home care worker, the department may recover from
6 the home care placement agency, on behalf of the home care consumer, an amount
7 equal to the total cost of those liabilities.

8 **SECTION 12.** 105.115 (4) (b) 3. of the statutes is amended to read:

9 105.115 (4) (b) 3. In the case of a home care consumer who commences an
10 action in circuit court under par. (a), if the circuit court finds that the home care
11 placement agency has failed to provide the home care consumer with the notice
12 required under sub. (2) and that the home care consumer is liable for the payment
13 of federal social security taxes or state reemployment assistance contributions or
14 federal unemployment ~~contributions or~~ taxes with respect to the home care worker,
15 for the provision of worker's compensation or liability insurance covering injury to
16 the home care worker, for the payment of any fine or penalty imposed on the home
17 care consumer for noncompliance with any state or federal labor law with respect to
18 the home care worker, or for any injury to the home care worker, the court may order
19 the home care placement agency to pay to the home care consumer an amount equal
20 to the total cost of those liabilities, together with costs under ch. 814 and,
21 notwithstanding s. 814.04 (1), reasonable attorney fees.

22 **SECTION 13.** 106.38 (3) (c) 3. of the statutes is amended to read:

ASSEMBLY BILL 164**SECTION 18**

1 **SECTION 18.** 108.04 (2) (a) 3. of the statutes is amended to read:

2 108.04 (2) (a) 3. The claimant conducts a reasonable search for suitable work
3 during that week and provides verification of that search to the department. The
4 search for suitable work must include at least 4 actions per week that constitute a
5 reasonable search as prescribed by rule of the department. The department shall
6 require, for the 3rd or subsequent week of the claimant's benefit year, that at least
7 2 actions per week be direct contacts with potential employing units. In addition,
8 the department may, by rule, require a claimant to take more than 4 reasonable
9 work search actions in any week. The department shall require a uniform number
10 of reasonable work search actions for similar types of claimants. The department
11 may require a claimant to apply for one or more of the potential opportunities
12 provided to the claimant under sub. (15) (a) 1. and may refer a claimant to
13 opportunities with a temporary help company as part of the required search for
14 suitable work under this subdivision.

15 **SECTION 19.** 108.04 (2) (a) 4. of the statutes is renumbered 108.04 (2) (a) 4.
16 (intro.) and amended to read:

17 108.04 (2) (a) 4. (intro.) If the claimant is claiming benefits for a week other
18 than an initial week, the claimant ~~provides~~ does all of the following:

19 a. Provides information or job application materials that are requested by the
20 department ~~and participates.~~

21 b. Participates in a public employment office workshop or training program or
22 in similar reemployment services that are required by the department under sub.
23 (15) (a) 2.

ASSEMBLY BILL 164**SECTION 20**

1 **SECTION 20.** 108.04 (2) (a) 4. c. of the statutes is created to read:

2 108.04 (2) (a) 4. c. Submits and keeps posted on the department's job center
3 website a current resume, if the claimant resides in this state.

4 **SECTION 21.** 108.04 (2) (a) 5. of the statutes is created to read:

5 108.04 (2) (a) 5. The claimant completes any reemployment counseling
6 session required of the claimant under sub. (15) (ao) 1.

7 **SECTION 22.** 108.04 (12) (b) of the statutes is amended to read:

8 108.04 (12) (b) Any individual who receives, through the department, any
9 other type of unemployment or reemployment assistance benefit or allowance for a
10 given week is ineligible for benefits for that same week under this chapter, except as
11 specifically required for conformity with 19 USC 2101 to 2497b.

12 **SECTION 23.** 108.04 (15) (a) (intro.) and 1. of the statutes are consolidated,
13 renumbered 108.04 (15) (a) 1. and amended to read:

14 108.04 (15) (a) 1. Except as provided in par. (b), the department ~~may do any of~~
15 ~~the following shall~~, for the purpose of assisting claimants to find or obtain work: ~~1.~~
16 ~~Use, use the information or, materials, and resume~~ provided under sub. (2) (a) 4. to
17 assess a claimant's efforts, skills, and ability to find or obtain work and to develop a
18 list of potential opportunities for ~~a~~ the claimant to obtain suitable work. A
19 ~~claimant who otherwise satisfies the requirement under sub. (2) (a) 3. is not~~
20 ~~required to apply for any specific positions on the list in order to satisfy that~~
21 ~~requirement~~ The department shall provide each claimant, prior to the claimant
22 filing a weekly claim for benefits, with at least 4 such potential opportunities each
23 week, one or more of which may be opportunities with a temporary help company.

ASSEMBLY BILL 164**SECTION 24**

1 **SECTION 24.** 108.04 (15) (a) 2. of the statutes is renumbered 108.04 (15) (a) 2.

2 a. and amended to read:

3 108.04 (15) (a) 2. a. ~~Require~~ Except as provided in par. (b), the department
4 shall require a claimant whom the department identifies as likely to exhaust
5 regular benefits to participate in a public employment office workshop or training
6 program or in similar reemployment services that do not charge the claimant a
7 participation fee and that offer instruction to improve the claimant's ability to
8 obtain suitable work.

9 **SECTION 25.** 108.04 (15) (a) 2. b. of the statutes is created to read:

10 108.04 (15) (a) 2. b. Except as provided in par. (b), in addition to the claimants
11 described in subd. 2. a., the department may require other claimants to participate
12 in the reemployment services described in subd. 2. a., but the department shall
13 prioritize claimants who are more likely to have difficulty obtaining reemployment.

14 **SECTION 26.** 108.04 (15) (am) and (ao) of the statutes are created to read:

15 108.04 (15) (am) In carrying out this state's program of reemployment
16 services and eligibility assessments using grant funds awarded under 42 USC 506,
17 the department shall, except as provided in par. (b), provide reemployment services
18 to all claimants receiving benefits, including benefits under ss. 108.141 and
19 108.142, including by doing all of the following for each such claimant:

20 1. Requiring the claimant to complete an online assessment aimed at
21 identifying the claimant's skills, abilities, and career aptitude.

22 2. Coordinating with the claimant to develop an individualized employment
23 plan for the claimant.

ASSEMBLY BILL 164**SECTION 26**

1 3. Requiring the claimant to participate in the services described under par.
2 (a) 2. a. as needed pursuant to the individualized employment plan described in
3 subd. 2.

4 (ao) Except as provided in par. (b), the department shall, when a claimant's
5 remaining benefit entitlement under s. 108.06 (1) is 3 or less times the claimant's
6 weekly benefit rate under s. 108.05 (1), do all of the following:

7 1. Require the claimant to participate in a live, one-on-one reemployment
8 counseling session between the claimant and an employee of the department.

9 2. Provide the claimant information about services and benefits that are
10 available to the claimant pursuant to the federal Workforce Innovation and
11 Opportunity Act of 2014, 29 USC 3101 to 3361, once the claimant exhausts his or
12 her benefit entitlement.

13 **SECTION 27.** 108.13 (4) (a) 4. of the statutes is renumbered 108.13 (4) (a) 2m.
14 and amended to read:

15 108.13 (4) (a) 2m. ~~“Unemployment insurance”~~ “Reemployment assistance”
16 means any compensation payable under this chapter, including amounts payable by
17 the department pursuant to an agreement under any federal law providing for
18 compensation, assistance or allowances with respect to unemployment.

19 **SECTION 28.** 108.14 (1) of the statutes is amended to read:

20 108.14 (1) This chapter shall be administered by the department through its
21 division of reemployment assistance.

22 **SECTION 29.** 108.14 (8o) of the statutes is created to read:

ASSEMBLY BILL 164**SECTION 29**

1 108.14 (8o) The department shall act to continue to receive grants for
2 reemployment services and eligibility assessments under 42 USC 506.

3 **SECTION 30.** 108.141 (1) (b) 3. of the statutes is amended to read:

4 108.141 (1) (b) 3. Has no right to ~~unemployment~~ reemployment assistance
5 benefits or allowances, as the case may be, under the railroad unemployment
6 insurance act or such other federal laws as are specified in regulations issued by the
7 U.S. secretary of labor, and has not received and is not seeking ~~unemployment~~
8 reemployment assistance benefits under the ~~unemployment—insurance~~
9 reemployment assistance law of Canada, but if the individual is seeking such
10 benefits and the appropriate agency finally determines that he or she is not entitled
11 to benefits under such law he or she is an exhaustee.

12 **SECTION 31.** 108.142 (1) (h) 3. of the statutes is amended to read:

13 108.142 (1) (h) 3. Has no right to ~~unemployment~~ reemployment assistance
14 benefits or allowances under the railroad unemployment insurance act or such
15 other federal laws as are specified in regulations issued by the U.S. secretary of
16 labor, and has not received and is not seeking ~~unemployment~~ reemployment
17 assistance benefits under the ~~unemployment—insurance~~ reemployment assistance
18 law of Canada, but if the individual is seeking such benefits and the appropriate
19 agency finally determines that he or she is not entitled to benefits under that law,
20 the individual is an “exhaustee”.

21 **SECTION 32.** 108.19 (1m) of the statutes is amended to read:

22 108.19 (1m) Each employer subject to this chapter as of the date a rate is
23 established under this subsection shall pay an assessment to the ~~unemployment~~

ASSEMBLY BILL 164**SECTION 32**

1 reemployment assistance interest payment fund at a rate established by the
2 department sufficient to pay interest due on advances from the federal
3 unemployment account under Title XII of the federal social security act, 42 USC
4 1321 to 1324. The rate established by the department for employers who finance
5 benefits under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall be 75 percent of the
6 rate established for other employers. The amount of any employer's assessment
7 shall be the product of the rate established for that employer multiplied by the
8 employer's payroll of the previous calendar year as taken from quarterly
9 employment and wage reports filed by the employer under s. 108.205 (1) or, in the
10 absence of the filing of such reports, estimates made by the department. Each
11 assessment made under this subsection is due within 30 days after the date the
12 department issues the assessment. If the amounts collected from employers under
13 this subsection exceed the amounts needed to pay interest due, the department
14 shall use any excess to pay interest owed in subsequent years on advances from the
15 federal unemployment account. If the department determines that additional
16 interest obligations are unlikely, the department shall transfer the excess to the
17 balancing account of the fund, the ~~unemployment~~ reemployment assistance
18 program integrity fund, or both in amounts determined by the department.

19 **SECTION 33.** 111.39 (4) (c) of the statutes is amended to read:

20 111.39 (4) (c) If, after hearing, the examiner finds that the respondent has
21 engaged in discrimination, unfair honesty testing or unfair genetic testing, the
22 examiner shall make written findings and order such action by the respondent as
23 will effectuate the purpose of this subchapter, with or without back pay. If the

ASSEMBLY BILL 164**SECTION 33**

1 examiner awards any payment to an employee because of a violation of s. 111.321 by
2 an individual employed by the employer, under s. 111.32 (6), the employer of that
3 individual is liable for the payment. If the examiner finds a respondent violated s.
4 111.322 (2m), the examiner shall award compensation in lieu of reinstatement if
5 requested by all parties and may award compensation in lieu of reinstatement if
6 requested by any party. Compensation in lieu of reinstatement for a violation of s.
7 111.322 (2m) may not be less than 500 times nor more than 1,000 times the hourly
8 wage of the person discriminated against when the violation occurred. Back pay
9 liability may not accrue from a date more than 2 years prior to the filing of a
10 complaint with the department. Interim earnings or amounts earnable with
11 reasonable diligence by the person discriminated against or subjected to unfair
12 honesty testing or unfair genetic testing shall operate to reduce back pay otherwise
13 allowable. Amounts received by the person discriminated against or subject to the
14 unfair honesty testing or unfair genetic testing as ~~unemployment~~ reemployment
15 assistance benefits or welfare payments shall not reduce the back pay otherwise
16 allowable, but shall be withheld from the person discriminated against or subject to
17 unfair honesty testing or unfair genetic testing and immediately paid to the
18 unemployment reserve fund or, in the case of a welfare payment, to the welfare
19 agency making the payment.

20 **SECTION 34.** 230.43 (4) of the statutes is amended to read:

21 230.43 (4) RIGHTS OF EMPLOYEE. If an employee has been removed, demoted
22 or reclassified, from or in any position or employment in contravention or violation
23 of this subchapter, and has been restored to such position or employment by order of

ASSEMBLY BILL 164**SECTION 34**

1 the commission or any court upon review, the employee shall be entitled to
2 compensation therefor from the date of such unlawful removal, demotion or
3 reclassification at the rate to which he or she would have been entitled by law but
4 for such unlawful removal, demotion or reclassification. Interim earnings or
5 amounts earnable with reasonable diligence by the employee shall operate to
6 reduce back pay otherwise allowable. Amounts received by the employee as
7 ~~unemployment~~ reemployment assistance benefits or welfare payments shall not
8 reduce the back pay otherwise allowable, but shall be withheld from the employee
9 and immediately paid to the unemployment reserve fund or, in the case of a welfare
10 payment, to the welfare agency making such payment. The employee shall be
11 entitled to an order of mandamus to enforce the payment or other provisions of such
12 order.

13 **SECTION 35.** 230.85 (3) (d) of the statutes is amended to read:

14 230.85 (3) (d) Interim earnings or amounts earnable with reasonable
15 diligence by the person subjected to the retaliatory action or threat shall reduce
16 back pay otherwise allowable. Amounts received by the person subjected to the
17 retaliatory action or threat as ~~unemployment~~ reemployment assistance benefits or
18 welfare payments do not reduce the back pay otherwise allowable, but shall be
19 withheld from the person subjected to the retaliatory action or threat and
20 immediately paid to the unemployment reserve fund or to the welfare agency
21 making the payment.

22 **SECTION 36.** 779.01 (2) (am) of the statutes is amended to read:

23 779.01 (2) (am) "Labor" includes any wages and related contributions for

ASSEMBLY BILL 164**SECTION 36**

1 state employment taxes, worker's compensation and ~~unemployment compensation~~
2 ~~insurance~~ reemployment assistance, and other fringe benefits.

3 **SECTION 37. Terminology changes.**

4 (1) UNEMPLOYMENT INSURANCE; TERMINOLOGY CHANGES.

5 (a) Wherever "unemployment insurance" appears in the following, as affected
6 by the acts of 2025, "reemployment assistance" is substituted: ss. 6.10 (9), 13.63 (1)
7 (b), 15.227 (3), 16.48 (1) (intro.), (am), (bm), and (f) and (3), 19.85 (1) (ee), 29.024 (2r)
8 (title) and (d) 1., 46.272 (7) (e), 47.035 (1), 48.715 (7), 49.163 (2) (am) 5., 49.19 (4)
9 (dm) 4., 50.498 (title) and (4) (b), 51.032 (title) and (4), 59.40 (2) (e), 59.57 (2) (b),
10 66.1103 (1) (a), 71.01 (10) (b), 71.05 (6) (b) 47m., 71.26 (1) (h), 71.45 (1) (c), 71.52 (6),
11 71.67 (7) (a) and (b) 2., 71.80 (16) (a) and (b), 73.0301 (2) (c) 2., 73.09 (8), 93.135
12 (title) and (4), 101.654 (2) (c), 102.17 (1) (c) 2., 102.28 (7) (b) 2., 102.315 (2m) (d),
13 103.34 (10) (title), 103.92 (3) and (8) (title), 105.13 (1), 108.02 (15) (c) 1., (dm) 1., (e),
14 (i) 2., and (k) 9., 10., and 19. b., (21) (a) 2. and (b), and (21e) (e), 108.04 (2) (ae), (4)
15 (c), (5) (intro.), (5g) (a) (intro.), (7) (a) and (L) (intro.), (8) (a) and (c), (11) (g) 2. d., (12)
16 (c) and (d), and (13) (g) 2., 108.06 (5) (a), 108.065 (3), 108.068 (6), 108.07 (3m) and
17 (5m), 108.13 (2) and (4) (b), (c) (intro.), (e), and (f), 108.135 (1) (intro.) and (a), 108.14
18 (5) (a), (ag), and (ar), (6), (7) (a), (8) (a), (8m) (a), (8n) (a) and (b), (8s) (a) and (b), (8t),
19 (9), (13), (14), (18), (19), (23) (b) 1., and (24), 108.141 (1) (h) and (3g) (a) 2., (c), and
20 (d), 108.142 (1) (i), 108.155 (6), 108.16 (5) (b), 108.161 (3) and (3e), 108.162 (1),
21 108.19 (1e) (d), (1f) (b), and (4), 108.20 (2m), 108.227 (title) and (2) (c) 2., 115.31
22 (6m), 116.03 (4), 118.19 (1m) (b), 120.25 (2) (a) and (6), 138.09 (3) (am) 2. and (4) (c),
23 138.12 (4) (b) 5m. and (5) (am) 1. b. and 3., 138.14 (5) (b) 2m. and (9) (cm), 146.40

ASSEMBLY BILL 164**SECTION 37**

1 (4d) (d), 165.066 (title), 169.35 (title) and (3), 170.12 (8) (b) 1. bm. and 4., 175.46 (5)
2 (a), 202.021 (4) (a) 6., 202.06 (2) (g), 202.23 (2), 203.03 (8) (c), 203.07 (3), 217.05 (5)
3 (e) 6. and (7) (d), 218.0116 (1g) (b) and (1m) (a) 2m. and (d), 218.02 (3) (dm), (6) (d),
4 and (9) (a) 1m., 218.04 (4) (am) 2m. and (5) (at), 218.05 (4) (c) 2m., (11) (bm), and
5 (12) (at), 218.11 (6m) (c), 218.12 (3m) (c), 218.22 (3m) (c), 218.32 (3m) (c), 218.41
6 (3m) (b) 3., 218.51 (4m) (b) 3., 224.44 (title), 224.72 (7m) (bm), 224.725 (6) (bm),
7 224.77 (2m) (e), 224.95 (1) (bm), 230.26 (4), 238.31 (1) (e) 4. c., 238.397 (2) (a) 4. c.,
8 254.115 (title) and (5), 254.176 (5), 254.20 (7), 256.18 (title) and (4m), 299.07 (title)
9 and (3), 303.08 (3), (4), and (5) (intro.), 341.51 (4m) (c), 343.305 (6) (e) 6., 343.66
10 (3m), 440.12 (title) and (2), 463.14 (title) and (5), 551.412 (4g) (a) 2m. and (d), 562.05
11 (5) (a) 11. and (8) (f), 563.285 (title) and (1m), 628.097 (title) and (2m), 628.10 (2)
12 (cm), 628.93 (2) (title), 632.69 (2) (d) 2. and (4) (d), 633.14 (2m) (b), 633.15 (2) (d),
13 751.155 (title) and (3), 815.18 (13) (j), 859.02 (2) (a), and 949.06 (3) (b).

14 (b) Wherever “unemployment compensation” appears in the following, as
15 affected by the acts of 2025, “reemployment assistance” is substituted: ss. 49.45
16 (23b) (a) 2. f., 71.07 (6n) (c) 3., 71.28 (6n) (c) 3., 71.47 (6n) (c) 3., 108.04 (13) (g) 1. b.,
17 108.11 (2), 701.0508 (2), 756.04 (2) (c) 4., and 767.75 (3m) (title).

18 (c) Wherever “unemployment” appears in the following, as affected by the acts
19 of 2025, “reemployment assistance” is substituted: ss. 25.17 (1) (xe) and (xf), 108.04
20 (2) (bb) 5., 108.16 (6) (i) and (m) and (6m) (b), 108.19 (title), (1f) (a), (1q), and (1s) (a)
21 (intro.) and 2. and (b), 108.221 (3), 108.225 (4) (b), and 111.15.

22 (d) The legislative reference bureau shall, when preparing the statutes for

ASSEMBLY BILL 164**SECTION 37**

1 publication, make other changes necessary to effect the terminology changes in
2 pars. (a) to (c).

3 **SECTION 38. Nonstatutory provisions.**

4 (1) The department of workforce development shall submit a notice to the
5 legislative reference bureau for publication in the Wisconsin Administrative
6 Register when the department determines that the department has any rules in
7 place that are necessary to implement the treatment of s. 108.04 (2) (a) 3. by this
8 act.

9 **SECTION 39. Initial applicability.**

10 (1) The treatment of s. 108.04 (2) (a) 3. first applies with respect to weeks of
11 unemployment beginning on the effective date of this subsection.

12 (2) The renumbering and amendment of s. 108.04 (2) (a) 4. and (15) (a) 2., the
13 consolidation, renumbering, and amendment of s. 108.04 (15) (a) (intro.) and 1., and
14 the creation of s. 108.04 (2) (a) 4. c. and 5. and (15) (a) 2. b., (am), and (ao) first apply
15 with respect to weeks of unemployment beginning on the effective date of this
16 subsection.

17 **SECTION 40. Effective dates.** This act takes effect on July 5, 2026, except as
18 follows:

19 (1) The treatment of s. 108.04 (2) (a) 3. and SECTION 39 (1) of this act take
20 effect on the Sunday after the notice under SECTION 38 (1) of this act is published in
21 the Wisconsin Administrative Register or on January 4, 2026, whichever occurs
22 first.

23 (2) The treatment of ss. 108.01 (2m) and 108.14 (8o) and (30), the

ASSEMBLY BILL 164**SECTION 40**

1 renumbering and amendment of s. 108.04 (2) (a) 4. and (15) (a) 2., the consolidation,
2 renumbering, and amendment of s. 108.04 (15) (a) (intro.) and 1., and the creation
3 of s. 108.04 (2) (a) 4. c. and 5. and (15) (a) 2. b., (am), and (ao) and SECTIONS 38 (1)
4 and 39 (2) of this act take effect on the first Sunday after publication.

5

(END)

Fiscal Estimate Narratives

DWD 4/22/2025

LRB Number	25-1535/1	Introduction Number	AB-0164	Estimate Type	Original
Description various changes to the unemployment insurance law and federal Reemployment Services and Eligibility Assessment grants					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes various changes to Wisconsin's Unemployment Insurance (UI) program, establishes new requirements for how the Department of Workforce Development (DWD) Division of Employment and Training (DET) delivers the federal Re-employment Services and Eligibility Assessment Grants (RESEA) program, and updates federal references.

Certain provisions in the bill are anticipated to have a fiscal effect on operations costs totaling \$2,440,008 for all funds, consisting of \$958,880 for one-time implementation steps and \$1,481,128 for on-going operations.

Some provisions in the bill are anticipated to have a fiscal effect on UI Trust Fund revenues and payments, but the annual net effect for all provisions in the bill is indeterminate.

The UI program fiscal effects related to operations costs and the UI Trust Fund are:

Program Name Change:

The bill changes the name of the Unemployment Insurance Division to the Division of Reemployment Assistance. Costs to establish a Division of Reemployment Assistance and change all statutory references to "unemployment insurance" to "reemployment assistance" is estimated to have one-time IT changes estimated to take 454 hours, at \$96 per hour, for a cost of \$43,584.

Additional one-time administrative costs are estimated to total \$256,442 consisting of \$244,320 in contracted staff costs for 2,545 hours and an additional \$12,122 in supply and service costs. This staff effort is to mitigate confusion for stakeholders as a quality control measure to minimize adverse impacts for employers making UI Trust Fund contributions and eligible claimants applying for benefits.

This provision is not estimated to impact the UI Trust Fund.

General Qualifying Requirements:

The department has reviewed all five changes related to new qualifying requirements for claimants and has determined a total need for 1,250 hours of IT programming for a total cost of \$120,000. There is an additional administrative cost to implement changes and update public facing program materials that are estimated to be \$88,900. The ongoing impact of these changes is uncertain. It is possible that the new requirements increase the number of redetermination and appeal requests, which would increase the administrative burden.

It is unknown what effect the new qualifying requirements will have on eligibility determinations, and therefore the impact on the UI Trust Fund is indeterminate.

Reemployment Services and Eligibility Assessment (RESEA) Grants – providing services to claimants about to exhaust regular UI benefits:

These provisions expand outreach requirements for DET's current RESEA program and establish new participation requirements related to claimants about to exhaust their regular UI benefits. The department anticipates these provisions will need 4,500 hours of IT programming at \$96 per hour for a one-time cost of \$432,000. Ongoing IT maintenance needs are estimated to be 900 hours with an annual cost of \$86,400 per year. The department is assuming approximately 11,400 additional UI claimants per year will be served in the RESEA program which, based on experience with the current RESEA program effort, will require an allocation of funding equivalent to 11 FTE for the effort needed to serve the increased demand. The ongoing annualized staffing costs are anticipated to be \$1,213,300.

In UI, these provisions have a one-time IT programming need estimated at 40 hours at \$96 per hour for a total cost of \$3,840. There is an administrative one-time cost of \$14,114 for implementation and development of a model to identify when UI claimants are likely to exhaust their eligibility for regular UI benefits.

There is an additional annual administrative impact of 3,421 hours of UI staff time at a cost of \$181,428. This staff time will be used to coordinate services between UI and DET programs for applicable UI claimants.

There will be revenue and payment impacts on the UI Trust Fund, but the effect is indeterminate.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2025 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 25-1535/1	Introduction Number AB-0164	
Description various changes to the unemployment insurance law and federal Reemployment Services and Eligibility Assessment grants		
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): Certain provisions in the bill are anticipated to have a one-time fiscal effect on operations totaling \$958,880.		
II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$
(FTE Position Changes)		
State Operations - Other Costs	1,481,128	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$1,481,128	\$
B. State Costs by Source of Funds		
GPR		
FED	1,481,128	
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$1,481,128	\$
NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By	Authorized Signature	Date
DWD/ Lisa Hollman (608) 405-4477	Lynda Jarstad (608) 261-2138	4/22/2025



2025 ASSEMBLY BILL 167

April 8, 2025 - Introduced by Representatives TUCKER, ARMSTRONG, BROOKS, B. JACOBSON, DUCHOW, MURPHY, O'CONNOR, PENTERMAN and KNODL, cosponsored by Senator WIMBERGER. Referred to Committee on Workforce Development, Labor, and Integrated Employment.

1 **AN ACT** *to renumber and amend* 108.04 (2) (a) 4. and 108.04 (5) (e); *to amend*
2 16.54 (2) (a) 1., 108.04 (5) (b), 108.04 (15) (a) 1. and 108.14 (20); *to create*
3 16.54 (14), 108.04 (2) (a) 4. c., 108.04 (5) (e) (intro.), 108.04 (5) (e) 2. and 108.04
4 (5) (h) of the statutes; **relating to:** various changes to the unemployment
5 insurance law and requiring approval by the Joint Committee on Finance of
6 certain federally authorized unemployment benefits.

Analysis by the Legislative Reference Bureau

UNEMPLOYMENT INSURANCE

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:

Misconduct

Currently, if an employee is discharged for misconduct connected with his or her employment, the employee is ineligible to receive UI benefits until certain requalification criteria are satisfied. In addition, all wages earned with the employer that discharges the employee are excluded in determining the amount of any future benefits to which the employee is entitled. Current law provides a

ASSEMBLY BILL 167

general definition of misconduct and also specifies a number of specific actions that constitute misconduct. The bill does all of the following with respect to what is considered misconduct:

1. Current law specifically provides that misconduct includes theft of an employer's property or services with intent to deprive the employer of the property or services permanently, theft of currency of any value, felonious conduct connected with an employee's employment with his or her employer, or intentional or negligent conduct by an employee that causes substantial damage to his or her employer's property. The bill does the following:

a. Eliminates the requirement that the employee have intent to deprive the employer of the property or services permanently.

b. Provides that intentional or negligent conduct by an employee that causes the destruction of an employer's records is also considered misconduct.

c. Adds unauthorized possession of an employer's property, theft or unauthorized distribution of an employer's confidential or proprietary information, and use of an employer's credit card or other financial instrument for an unauthorized or nonbusiness purpose without prior approval from the employer to the list of what is considered misconduct.

2. Current law specifically provides that misconduct includes absenteeism by an employee on more than two occasions within the 120-day period before the date of the employee's termination, unless otherwise specified by his or her employer in an employment manual of which the employee has acknowledged receipt with his or her signature, or excessive tardiness by an employee in violation of a policy of the employer that has been communicated to the employee, if the employee does not provide to his or her employer both notice and one or more valid reasons for the absenteeism or tardiness.

The bill instead provides that misconduct includes both of the following: 1) a violation of an employer's reasonable policy that covers employee absenteeism, tardiness, or both and that results in an employee's termination, if that termination is in accordance with that policy and the policy is specified by the employer in an employment manual of which the employee has acknowledged receipt with his or her signature; and 2) if an employer does not have a policy covering absenteeism that meets the criteria just described, absenteeism on more than two occasions within the 120-day period preceding an employee's termination, if the employee does not provide to the employer both notice and one or more valid reasons for the absenteeism.

3. The bill specifically provides that misconduct includes a violation by an employee of an employer's reasonable employment policy that covers the use of social media specified by the employer in an employment manual of which the employee has acknowledged receipt with his or her signature.

General qualifying requirements

Under current law, a claimant for UI benefits is generally required to 1) register for work, 2) be able to work and available for work, and 3) conduct a work

ASSEMBLY BILL 167

search for each week in order to remain eligible. A claimant is required to conduct at least four work search actions each week, and DWD may require, by rule, that an individual conduct more than four work search actions per week. Finally, if a claimant is claiming benefits for a week other than an initial week, the claimant must provide information or job application materials that are requested by DWD and participate in a public employment office workshop or training program or in similar reemployment services required by DWD.

The bill does the following:

1. Requires a claimant who resides outside this state and who is claiming benefits for a week other than an initial week to register with his or her local job center website or labor market exchange and requires DWD to verify that each such claimant has complied with that requirement.

2. Requires DWD to conduct random audits for at least 50 percent of all work search actions reported to have been performed by claimants. Current law requires random audits of work search actions, but does not require a specific number or level of audits.

OTHER CHANGES***UI benefit augmentations subject to review by Joint Committee on Finance***

The bill provides that whenever any UI benefit augmentation is provided for through an act of Congress or by executive action of the president of the United States, the cochairpersons of the Joint Committee on Finance must be notified, in writing, of the proposed benefit augmentation. The bill defines “benefit augmentation” to mean any action whereby the governor or any other state official or agency would encumber or expend moneys received from, or accept reimbursement from, the federal government or whereby the governor or any other state agency or official would enter into any contract or agreement with the federal government or any federal agency to 1) increase the weekly UI benefit rate payable to claimants above what is provided under state law, or 2) increase the total amount of UI benefits to which a claimant is entitled above what is provided under state law. Under the bill, such a benefit augmentation is subject to a seven-day passive review by the Joint Committee on Finance.

In addition, the bill provides that no benefit augmentation may be effectuated unless it is subject to termination or cancellation by the Joint Committee on Finance.

Worker’s compensation; misconduct

Currently, under the worker’s compensation law, an employer is not liable for temporary disability benefits during an employee’s healing period if the employee is suspended or terminated from employment due to misconduct, as defined under the UI law. Under the bill, the changes to the UI law’s definition of misconduct described above apply under the worker’s compensation law as well.

ASSEMBLY BILL 167**SECTION 1**

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.** 16.54 (2) (a) 1. of the statutes is amended to read:

2 16.54 (2) (a) 1. Except as provided in subd. 2. and sub. (14), whenever funds
3 shall be made available to this state through an act of congress and the funds are
4 accepted as provided in sub. (1), the governor shall designate the state board,
5 commission, or department to administer any of such funds, and the board,
6 commission, or department so designated by the governor is authorized and
7 directed to administer such funds for the purpose designated by the act of congress
8 making an appropriation of such funds, or by the department of the United States
9 government making such funds available to this state. Whenever a block grant is
10 made to this state, no moneys received as a part of the block grant may be
11 transferred from use as a part of one such grant to use as a part of another such
12 grant, regardless of whether a transfer between appropriations is required, unless
13 the joint committee on finance approves the transfer.

14 **SECTION 2.** 16.54 (14) of the statutes is created to read:

15 16.54 (14) (a) In this subsection, “benefit augmentation” means for any state
16 agency or official, including the governor, to encumber or expend moneys received
17 from, or accept reimbursement from, the federal government or for any state agency
18 or official, including the governor, to enter into any contract or agreement with the
19 federal government or any federal agency, to do any of the following:

20 1. Increase the weekly unemployment insurance benefit rate payable to

ASSEMBLY BILL 167**SECTION 2**

1 claimants to a rate that is higher than what is provided under s. 108.05, including
2 by providing any stipend or other benefit separately from unemployment insurance
3 benefits, if eligibility for that stipend or benefit is determined, in whole or in part,
4 based on an individual's receipt of, or eligibility for, unemployment insurance
5 benefits.

6 2. Increase the total amount of unemployment insurance benefits to which a
7 claimant is entitled to an amount that is greater than what is provided under s.
8 108.06 (2), including by providing an increased overall benefit entitlement or
9 additional weeks of benefits.

10 (b) 1. Whenever any benefit augmentation is provided for through an act of
11 congress or by executive action of the president of the United States, the governor or
12 other state official or state agency shall notify the cochairpersons of the joint
13 committee on finance, in writing, of the proposed benefit augmentation. The notice
14 shall contain a detailed description of the proposed benefit augmentation, an
15 affirmative statement that the proposed benefit augmentation complies with subd.
16 2., and, if the proposed benefit augmentation requires any contract or agreement
17 with the federal government or any federal agency, a copy of the proposed contract
18 or agreement if available. If the cochairpersons of the committee do not notify the
19 governor, official, or agency that the committee has scheduled a meeting for the
20 purpose of reviewing the proposed benefit augmentation within 7 working days
21 after the date of the governor's, official's, or agency's notification, the benefit
22 augmentation may, subject to subd. 2., be effectuated as proposed by the governor,
23 official, or agency. If, within 7 working days after the date of the governor's,

ASSEMBLY BILL 167**SECTION 2**

1 official's, or agency's notification, the cochairpersons of the committee notify the
2 governor, official, or agency that the committee has scheduled a meeting for the
3 purpose of reviewing the proposed benefit augmentation, the benefit augmentation
4 may not be effectuated without the approval of the committee. The committee may
5 not approve a proposed benefit augmentation unless it complies with subd. 2.

6 2. No benefit augmentation may be effectuated unless it is subject to
7 termination or cancellation by the joint committee on finance.

8 (c) This subsection does not apply with respect to federal extended benefits
9 under s. 108.141.

10 **SECTION 3.** 108.04 (2) (a) 4. of the statutes is renumbered 108.04 (2) (a) 4.
11 (intro.) and amended to read:

12 108.04 (2) (a) 4. (intro.) If the claimant is claiming benefits for a week other
13 than an initial week, the claimant ~~provides~~ does all of the following:

14 a. Provides information or job application materials that are requested by the
15 department ~~and participates~~.

16 b. Participates in a public employment office workshop or training program or
17 in similar reemployment services that are required by the department under sub.
18 (15) (a) 2.

19 **SECTION 4.** 108.04 (2) (a) 4. c. of the statutes is created to read:

20 108.04 (2) (a) 4. c. Registers on his or her local job center website or with his
21 or her labor market exchange, if the claimant resides outside this state. The
22 department shall verify that each such claimant has complied with this subd. 4. c.

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

ASSEMBLY BILL 167**SECTION 5**

1 108.04 (5) (b) Theft or unauthorized possession of an employer's property ~~or,~~
2 theft of an employer's services with intent to deprive the employer of the property or
3 services permanently, theft or unauthorized distribution of an employer's
4 confidential or proprietary information, use of an employer's credit card or other
5 financial instrument for an unauthorized or nonbusiness purpose without prior
6 approval from the employer, theft of currency of any value, felonious conduct
7 connected with an employee's employment with his or her employer, or intentional
8 or negligent conduct by an employee that causes the destruction of an employer's
9 records or substantial damage to his or her an employer's property.

10 **SECTION 6.** 108.04 (5) (e) (intro.) of the statutes is created to read:

11 108.04 (5) (e) (intro.) Any of the following:

12 **SECTION 7.** 108.04 (5) (e) of the statutes is renumbered 108.04 (5) (e) 1. and
13 amended to read:

14 108.04 (5) (e) 1. Absenteeism by an employee on more than 2 occasions within
15 the 120-day period before the date of the employee's termination, ~~unless otherwise~~
16 ~~specified by his or her employer~~ if the employee does not provide to his or her
17 employer both notice and one or more valid reasons for the absenteeism. This
18 subdivision does not apply if the employer has a reasonable policy that covers
19 absenteeism described in subd. 2. in an employment manual of which the employee
20 has acknowledged receipt with his or her signature, ~~or excessive tardiness by an~~
21 ~~employee in violation of a policy of the employer that has been communicated to the~~
22 ~~employee, if the employee does not provide to his or her employer both notice and~~
23 ~~one or more valid reasons for the absenteeism or tardiness.~~

ASSEMBLY BILL 167**SECTION 8**

1 **SECTION 8.** 108.04 (5) (e) 2. of the statutes is created to read:

2 108.04 (5) (e) 2. A violation of an employer's reasonable policy that covers
3 employee absenteeism, tardiness, or both, and that results in an employee's
4 termination, if that termination is in accordance with that policy and the policy is
5 specified by the employer in an employment manual of which the employee has
6 acknowledged receipt with his or her signature.

7 **SECTION 9.** 108.04 (5) (h) of the statutes is created to read:

8 108.04 (5) (h) A violation by an employee of an employer's reasonable policy
9 that covers the use of social media and is substantially related to the employee's
10 employment, if the violation results in an employee's termination and if that
11 termination is in accordance with that policy and the policy is specified by the
12 employer in an employment manual of which the employee has acknowledged
13 receipt with his or her signature.

14 **SECTION 10.** 108.04 (15) (a) 1. of the statutes is amended to read:

15 108.04 (15) (a) 1. Use the information or materials provided under sub. (2) (a)
16 4. a. to assess a claimant's efforts, skills, and ability to find or obtain work and to
17 develop a list of potential opportunities for a claimant to obtain suitable work. A
18 claimant who otherwise satisfies the requirement under sub. (2) (a) 3. is not
19 required to apply for any specific positions on the list in order to satisfy that
20 requirement.

21 **SECTION 11.** 108.14 (20) of the statutes is amended to read:

22 108.14 (20) The department shall conduct random audits on claimants for
23 benefits under this chapter to assess compliance with the work search

ASSEMBLY BILL 167**SECTION 11**

1 requirements under s. 108.04 (2) (a) 3. The department shall conduct the audits
2 required under this subsection at a level sufficient for the department to assess at
3 least 50 percent of all work search actions reported to have been performed by
4 claimants.

SECTION 12. Nonstatutory provisions.

6 (1) The department of workforce development shall submit a notice to the
7 legislative reference bureau for publication in the Wisconsin Administrative
8 Register when the department determines that the department has any rules in
9 place that are necessary to implement the renumbering and amendment of s.
10 108.04 (2) (a) 4. and the creation of s. 108.04 (2) (a) 4. c. by this act.

SECTION 13. Initial applicability.

12 (1) The renumbering and amendment of s. 108.04 (2) (a) 4. and the creation of
13 s. 108.04 (2) (a) 4. c. first apply with respect to weeks of unemployment beginning on
14 the effective date of this subsection.

15 (2) The renumbering and amendment of s. 108.04 (5) (e), the amendment of s.
16 108.04 (5) (b), and the creation of s. 108.04 (5) (e) (intro.) and 2. and (h) first apply
17 with respect to determinations issued under s. 108.09 on the effective date of this
18 subsection.

19 **SECTION 14. Effective dates.** This act takes effect on the Sunday after
20 publication, except as follows:

21 (1) The renumbering and amendment of s. 108.04 (2) (a) 4. and the creation of
22 s. 108.04 (2) (a) 4. c. and SECTION 13 (1) of this act take effect on the Sunday after

ASSEMBLY BILL 167**SECTION 14**

1 the notice under SECTION 12 (1) of this act is published in the Wisconsin
2 Administrative Register or on January 4, 2026, whichever occurs first.

3 (2) The renumbering and amendment of s. 108.04 (5) (e), the amendment of s.
4 108.04 (5) (b), and the creation of s. 108.04 (5) (e) (intro.) and 2. and (h) and SECTION
5 13 (2) of this act take effect on January 4, 2026, or on the first Sunday after the
6 180th day after publication, whichever occurs later.

7 (END)

Fiscal Estimate - 2025 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 25-1534/1	Introduction Number AB-0167
-----------------------------	------------------------------------

Description
 various changes to the unemployment insurance law and requiring approval by the Joint Committee on Finance of certain federally authorized unemployment benefits

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Create New Appropriations		

Local:

<input checked="" type="checkbox"/> No Local Government Costs	5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<input type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS	s. 20.445(1)(n), (1)(gd), and (1)(v)

Agency/Prepared By	Authorized Signature	Date
DWD/ Erin Blair (608) 405-4657	Lynda Jarstad (608) 261-2138	4/22/2025

Fiscal Estimate Narratives

DWD 4/22/2025

LRB Number	25-1534/1	Introduction Number	AB-0167	Estimate Type	Original
Description various changes to the unemployment insurance law and requiring approval by the Joint Committee on Finance of certain federally authorized unemployment benefits					

Assumptions Used in Arriving at Fiscal Estimate

The department estimates that proposed changes under the bill will have a total fiscal effect of \$35,024,400 for on-going operations. Additionally, the department estimates a fiscal effect to the UI Trust Fund as a decrease in UI benefits payments of \$18,200,000 annually which, assuming no other legislative or economic adjustments, would increase in the Trust Fund balance.

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. These fiscal effects by provision are described in more detail below.

The bill's proposed changes to work search audits are estimated to greatly increase manual staff efforts and therefore UI operations costs. The department's current approach to work search audits utilizes automated technologies to assist manual staff efforts. Under the proposal, UI would be required to manually audit over two million work search actions which is anticipated to require 761,400 hours of work based on current audit experience. This is the equivalent to the effort from 423 FTE. Assuming the annual cost per staff is \$82,800, this provision carries an expected annual administrative cost of \$35,024,400. For the purposes of this fiscal estimate, the cost increase is shown in the worksheet as an impact to federal funding. Segregated and Program Revenue - Other sources would also be used to support these costs, but at this time the cost allocation basis for assigning costs to these sources is not known. The bill does not provide position authority, and the department's cost estimate assumes the use of a contract with a private entity to perform the audits.

The bill's proposed change to remove, from the definition of misconduct, that an employee has intent to permanently deprive their employer of their property or services could jeopardize Wisconsin's ability to comply with US DOL conformity requirements necessary to receive federal funding. Current guidance from US DOL describes misconduct as "...a willful or controllable breach of an employee's duties, responsibilities, or behavior that the employer has a right to expect. Stated another way, the misconduct may be an act or an omission that is deliberately or substantially negligent, which adversely affects the employer's legitimate business interests. Simple negligence with no harmful intent is generally not misconduct, nor is inefficiency, unsatisfactory conduct beyond the claimant's control, or good-faith errors of judgment or discretion." (US DOL's ET Handbook p. IV-4). A finding of nonconformity may result in a loss of annual federal administrative grant funding and federal (FUTA) tax credits for employers until conformity was reestablished. The funding potentially at risk from the compliance issue could be some or all of the annual administrative grant funding, as well as any federal benefit funding the state could be eligible for at that time. The department receives over \$60 million in administrative funding from US DOL annually. Estimating an amount of revenue that could be at risk is not possible with the information available, and for this fiscal estimate the revenue effect is indeterminate.

The fiscal impacts related to Joint Committee on Finance approvals concerning federal UI benefit augmentation programs is indeterminate at this time.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2025 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 25-1534/1	Introduction Number AB-0167	
Description various changes to the unemployment insurance law and requiring approval by the Joint Committee on Finance of certain federally authorized unemployment benefits		
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$140,100 for one-time implementation steps, including \$1,300 to implement absenteeism change.		
II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$35,024,400	\$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$35,024,400	\$
B. State Costs by Source of Funds		
GPR		
FED	35,024,400	
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$35,024,400	\$
NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By	Authorized Signature	Date
DWD/ Erin Blair (608) 405-4657	Lynda Jarstad (608) 261-2138	4/22/2025



2025 ASSEMBLY BILL 168

April 8, 2025 - Introduced by Representatives KREIBICH, O'CONNOR, NEDWESKI, GREEN, DUCHOW, MURPHY, KNODL, B. JACOBSON, GUNDRUM and DITTRICH, cosponsored by Senator FEYEN. Referred to Committee on Workforce Development, Labor, and Integrated Employment.

1 **AN ACT to create** 108.14 (10m), 108.14 (23m), 108.14 (28), 108.14 (29), 108.14
2 (30) and 939.74 (2) (d) of the statutes; **relating to:** various changes to the
3 unemployment insurance law.

Analysis by the Legislative Reference Bureau

UNEMPLOYMENT INSURANCE

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:

Identity proofing

The bill requires DWD to implement identity-proofing measures for UI claimants who are engaging in benefit-related transactions with DWD that 1) require a claimant to verify his or her identity prior to filing an initial claim for benefits and when engaging in other transactions with DWD, and 2) achieve the IAL2 and AAL2 standards adopted in the National Institute of Standards and Technology's Digital Identity Guidelines.

Statute of limitations

Under current law, a prosecution for a felony must be commenced within six years after it was committed. Current law provides several exceptions for certain felonies, and the bill adds another exception. Under the bill, a prosecution for a

ASSEMBLY BILL 168

felony must be commenced within eight years after it was committed if the felony involves fraud in obtaining UI benefits and benefits under the special unemployment benefit programs under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.

Education and informational materials

Current law requires DWD to compile and provide to employers certain information about how the UI system works, including a handbook on the UI system for employers and information concerning the financing of the UI system that is published on DWD's website. The bill requires DWD to also provide certain training materials for employers and claimants on the UI system. The bill requires DWD to publish training videos on its website and also to provide live training seminars for employing units that are free of charge and provided on a quarterly basis.

Assistance call center

The bill requires DWD to operate a call center to assist claimants for UI benefits or similar federal payments. Furthermore, the bill requires DWD to do the following:

1. If the volume of calls has increased by 100 percent or more over the same week during the previous year or if there is a declared state of emergency for the state that causes or relates to an increase in UI claims, operate the call center with hours of at least 9 a.m. to 5 p.m. on weekdays.

2. If the volume of calls has increased by 300 percent or more over the same week during the previous year or if there is a declared state of emergency for the state that causes or relates to an increase in UI claims, operate the call center with evening hours after 5 p.m. and weekend hours.

Database comparisons

The bill requires DWD to perform a comparison of state and national databases that track death records, employment records, prison records, citizenship and immigration, and immigrations and customs against recipients of UI benefits for the purposes of detecting fraud or erroneous payments. The bill requires DWD to perform the comparison on at least a weekly basis. The bill provides that DWD may also make such comparisons with other databases.

Fraud detection

The bill requires DWD, if it suspends or reduces any method used by the department to detect fraud committed against the unemployment insurance program, to submit a notification detailing the suspension or reduction and the reasons therefor to the Council on Unemployment Insurance, the Governor, and the appropriate standing committees of the legislature.

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

ASSEMBLY BILL 168**SECTION 1**

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

1 **SECTION 1.** 108.14 (10m) of the statutes is created to read:

2 108.14 (**10m**) The department shall implement identity-proofing measures
3 for claimants who are engaging in benefit-related transactions with the department
4 that satisfy all of the following:

5 (a) The measures require a claimant to verify his or her identity prior to filing
6 an initial claim for benefits and when engaging in other transactions with the
7 department.

8 (b) The measures achieve the IAL2 and AAL2 standards adopted in the
9 National Institute of Standards and Technology's Digital Identity Guidelines.

10 **SECTION 2.** 108.14 (23m) of the statutes is created to read:

11 108.14 (**23m**) The department shall provide training materials on the
12 unemployment insurance system, including all of the following:

13 (a) Training videos for claimants and employing units published on the
14 department's website.

15 (b) Live training seminars for employing units that are free of charge and
16 provided on a quarterly basis. The seminars may be in-person, online, or both.

17 **SECTION 3.** 108.14 (28) of the statutes is created to read:

18 108.14 (**28**) If the department suspends or reduces any method used by the
19 department to detect fraud committed against the unemployment insurance
20 program under this chapter, the department shall submit a notification detailing
21 the suspension or reduction and the reasons therefor to the council on

ASSEMBLY BILL 168**SECTION 3**

1 unemployment insurance, the governor, and the appropriate standing committees
2 of the legislature under s. 13.172 (3).

3 **SECTION 4.** 108.14 (29) of the statutes is created to read:

4 108.14 (29) (a) The department shall maintain a call center to provide
5 assistance and support by telephone to claimants for benefits under this chapter or
6 payments under federal assistance programs for unemployment.

7 (b) 1. The department shall, during each of the following periods, operate the
8 call center with hours of at least 9 a.m. to 5 p.m. on weekdays:

9 a. During a declared state of emergency for the state that causes or relates to
10 an increase in unemployment claims.

11 b. For 90 days after any week in which the call center experiences an increase
12 of at least 100 percent in calls compared to the same week during the previous year,
13 and for 90 days after each subsequent week in which such an increase occurs.

14 2. The department shall, during each of the following periods, operate the call
15 center with hours after 5 p.m. on weekdays and at least 16 hours on weekends:

16 a. During a declared state of emergency for the state that causes or relates to
17 an increase in unemployment claims.

18 b. For 90 days after any week in which the call center experiences an increase
19 of at least 300 percent in calls compared to the same week during the previous year,
20 and for 90 days after each subsequent week in which such an increase occurs.

21 **SECTION 5.** 108.14 (30) of the statutes is created to read:

22 108.14 (30) (a) The department shall, on at least a weekly basis, perform a

ASSEMBLY BILL 168**SECTION 5**

1 comparison of recipients of benefits under this chapter against all of the following
2 for the purpose of detecting fraud or erroneous payments:

3 1. Nationally recognized databases that contain information on death records,
4 including the federal social security administration's death master file.

5 2. The National Association of State Workforce Agencies' integrity data hub.

6 3. The national directory of new hires maintained by the office of child
7 support enforcement in the U.S. department of health and human services.

8 4. Prisoner databases maintained by the department of justice, the
9 department of corrections, and the U.S. department of justice.

10 5. The U.S. Citizenship and Immigration Services Secure Automated
11 Verification of Eligibility database.

12 6. Databases maintained by the U.S. Immigration and Customs Enforcement.

13 (b) The department may perform comparisons of recipients of benefits under
14 this chapter against public or private databases in addition to those specified in par.

15 (a) 1. to 6.

16 **SECTION 6.** 939.74 (2) (d) of the statutes is created to read:

17 939.74 (2) (d) A prosecution for a felony violation under s. 108.24 (1) or (2) or
18 under any other statute under which a person is prosecuted for fraud in obtaining
19 unemployment insurance benefits, benefits under the pandemic unemployment
20 assistance program under 15 USC 9021, benefits under the federal pandemic
21 unemployment compensation and mixed earner unemployment compensation
22 programs under 15 USC 9023, or benefits under the pandemic emergency
23 unemployment compensation program under 15 USC 9025 must be commenced

ASSEMBLY BILL 168

SECTION 6

1 within 8 years after the commission of the violation if the violation is related to
2 benefits that were paid or payable on or before September 4, 2021.

3 **SECTION 7. Initial applicability.**

4 (1) Notwithstanding s. 990.06, the treatment of s. 939.74 (2) (d) first applies to
5 an act for which the time limit under s. 939.74 (1) for prosecution has not expired as
6 of the effective date of this subsection.

7 **SECTION 8. Effective date.**

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

9 (END)

Fiscal Estimate - 2025 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 25-1537/1	Introduction Number AB-0168
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Description
 various changes to the unemployment insurance law

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs		
<input checked="" type="checkbox"/> Indeterminate	5.Types of Local Government Units Affected	
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Counties <input type="checkbox"/> Others
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	20.445 (1)(n)

Agency/Prepared By DWD/ Andrew Evenson (608) 405-4472	Authorized Signature Lynda Jarstad (608) 261-2138	Date 4/22/2025
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Fiscal Estimate Narratives

DWD 4/22/2025

LRB Number	25-1537/1	Introduction Number	AB-0168	Estimate Type	Original
Description various changes to the unemployment insurance law					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes various changes that impact unemployment insurance (UI), which is administered by the Department of Workforce Development (DWD). The bill requires DWD to implement identity-proofing measures for UI claimants that achieve IAL2 and AAL2 standards adopted in the National Institute of Standards and Technology's Digital Identity Guidelines; to provide certain training materials for employers and claimants on the UI system including videos on DWD's website and free live training seminars on a quarterly basis; and to operate a call center to assist claimants for UI benefits.

Under the bill's call center related provisions, certain hours of operations are required based on call volume. For any week in which the volume of calls has increased by 100 percent or more over the same week during the previous year or if there is a declared state of emergency for the state that causes or relates to an increase in UI claims, DWD is required to operate the call center with hours of at least 9 a.m. to 5 p.m. on weekdays for a duration of 90 days after that week. For any week in which the volume of calls has increased by 300 percent or more over the same week during the previous year or if there is a declared state of emergency relating to an increase in UI claims, DWD is required to operate the call center with evening hours after 5 p.m. and weekend hours for a duration of 90 days after that week.

The bill also requires DWD to perform, at least weekly, a comparison of state and national databases that track death records, employment records, and prison records, citizenship and immigration, and immigrations and customs against recipients of UI benefits for the purposes of detecting fraud or erroneous payments, and the bill requires DWD, if it suspends or reduces any method used by the department to detect fraud committed against the unemployment insurance program, to submit a notification detailing the suspension or reduction and the reasons therefore to the Unemployment Insurance Advisory Council, the Governor, and the appropriate standing committees of the legislature.

Finally, the bill also extends the statute of limitations for felonies involving fraudulently obtained UI benefits and benefits under the special unemployment benefit programs under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.

The proposed bill changes related to operation of a call center are estimated to have a one-time fiscal effect to the department of \$1,558,444. The bill's provision to notify the Unemployment Insurance Advisory Council, the Governor, and the appropriate standing committees of the legislature of a suspension or reduction of any fraud detection method is estimated to have a minimal impact on administrative costs. The bill's changes to the statute of limitations for felonies involving fraud in obtaining UI benefits is estimated to have a small, indeterminate, impact on recovery of fraud committed against the UI Trust Fund and against Local Governments, and a minimal administrative impact to the department to update relevant policies.

All other provisions of the bill are estimated to not have a fiscal impact, as they align with current department business practices.

The proposed changes to call center operations are estimated to have a fiscal impact, but only when the provisions in the bill require evening and weekend hours. When those circumstances arise, the fiscal effect will be comprised of costs for additional contracted staff, IT modifications, and one-time administrative changes. The additional contracted staff needed to meet the bill's provisions is estimated as 45 FTE, which would be approximately \$1,456,300. This contract staff estimate assumes UI call centers would be staffed until 7 PM on weekdays and would operate for sixteen hours on the weekend. The estimated IT impact is 800 hours of work costing \$76,800, and the one-time administrative cost associated with implementing these systems changes is \$25,344. These costs are related to rescheduling database computations and modifying internal applications to accommodate lengthened call center hours.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2025 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 25-1537/1	Introduction Number AB-0168	
Description various changes to the unemployment insurance law		
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):		
The proposed bill changes related to operation of a call center are estimated to have a one-time fiscal effect to the department of \$1,558,444.		
II. Annualized Costs:		
	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$	\$
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$	\$
NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By		
Authorized Signature		Date
DWD/ Andrew Evenson (608) 405-4472		Lynda Jarstad (608) 261-2138
		4/22/2025



2025 ASSEMBLY BILL 169

April 8, 2025 - Introduced by Representatives KNODL, B. JACOBSON, BEHNKE, DITTRICH, DUCHOW, GREEN, GUNDRUM, MURPHY, O'CONNOR, PENTERMAN and WICHGERS, cosponsored by Senators TOMCZYK, CABRAL-GUEVARA, MARKLEIN and KAPENGA. Referred to Committee on Workforce Development, Labor, and Integrated Employment.

1 **AN ACT** *to renumber* 108.04 (2) (ae); *to renumber and amend* 108.14 (19); *to*
2 *amend* 108.04 (2) (a) 3., 108.04 (2) (bm), 108.04 (2) (g) 2., 108.04 (11) (cm),
3 108.14 (21) and 108.22 (8) (a); *to create* 108.04 (1) (hg), 108.04 (2) (ae) 1.,
4 108.04 (2) (hL), 108.14 (19) (b) and 108.14 (28) of the statutes; **relating to:**
5 various changes to the unemployment insurance law.

Analysis by the Legislative Reference Bureau

This bill makes various changes regarding the unemployment insurance (UI) law, which is administered by the Department of Workforce Development.

Suitable work; work search

Current law requires that, as a condition of being eligible for UI benefits for a given week, a claimant must 1) be able to work and available for work; 2) register for work in the manner prescribed by DWD; and 3) conduct a reasonable search for suitable work. Separately, current law also makes a claimant ineligible for UI benefits if a claimant fails, without good cause, to accept suitable work when offered.

The bill provides that an employer may report to DWD whenever 1) an individual declines a job interview or job offer; 2) an individual fails to respond to a job interview offer or job offer; 3) an individual cancels or fails to attend a scheduled

ASSEMBLY BILL 169

job interview without attempting to reschedule the job interview; 4) a UI claimant is unavailable for, or unable to perform, work actually available within a given week; or 5) under certain circumstances, the employer recalls a former employee receiving UI benefits who fails to return to work. The bill requires DWD to consider these reports in determining claimants' attachment to the labor market. The bill also provides that a UI claimant is not considered to have conducted a reasonable search for suitable work in a given week, and is therefore ineligible for benefits for that week, if the claimant declined a job interview, failed to respond to a job interview offer, or canceled or failed to attend a job interview in that week. The bill, however, provides that a report of a canceled or missed interview is to be disregarded if the claimant demonstrates that he or she promptly attempted to reschedule the interview and allows reports to be disregarded upon certain showings by a claimant. The bill requires a claimant to provide weekly verification of all job offers, job interview offers, recalls to return to work, and any other offers of work received or responded to by the claimant since the prior week's verification, as further prescribed by DWD, and requires DWD to investigate reports from employers as needed to determine their effect on claimants' eligibility for benefits. A disqualification of a claimant from receiving benefits for a given week based upon the claimant's failure to conduct a reasonable search for suitable work does not reduce the claimant's total UI benefit entitlement and does not preclude the claimant from receiving UI benefits in subsequent weeks, if the claimant is otherwise eligible for those weeks.

The bill requires DWD to include information on reports submitted by employers under the bill in its annual UI fraud report made to the Council on Unemployment Insurance, including actions taken by DWD in response to the reports and their effect on claimants' eligibility for benefits. In addition, the bill requires that this annual fraud report be submitted to the appropriate standing committees of the legislature.

The bill requires DWD to have in effect methods to address any circumstances in which a claimant for UI benefits fails to return to work or to accept suitable work without good cause or is unavailable for work or unable to work, including reporting methods for employers and a notice from DWD to claimants about the laws governing such circumstances.

Recovery of overpayments

Current law allows DWD to act to recover overpayments in certain circumstances and allows overpayments to be required to be repaid in cases where an individual makes misrepresentations to obtain benefits in the name of another person. This bill makes such recoveries mandatory, instead of permissive.

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

ASSEMBLY BILL 169**SECTION 1**

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

1 **SECTION 1.** 108.04 (1) (hg) of the statutes is created to read:

2 108.04 (1) (hg) 1. An employing unit may report to the department whenever
3 any of the following occurs:

4 a. An individual declines a job interview or job offer with the employing unit.

5 b. An individual fails to respond to a job interview offer or job offer made by
6 the employing unit.

7 c. An individual cancels or fails to attend a scheduled job interview with the
8 employing unit, unless the individual promptly attempts to reschedule the job
9 interview.

10 d. An employee claiming benefits is unavailable for, or unable to perform,
11 work actually available within a given week as described in par. (a).

12 e. The employing unit recalls an employee who fails to return to work as
13 described in sub. (8) (c).

14 2. The department shall investigate each report submitted under subd. 1. as
15 needed to determine whether the report affects a claimant's eligibility under sub.
16 (2) (hL).

17 **SECTION 2.** 108.04 (2) (a) 3. of the statutes is amended to read:

18 108.04 (2) (a) 3. The claimant conducts a reasonable search for suitable work
19 during that week and provides verification of that search to the department. The
20 claimant's verification under this subdivision shall include a record of all job offers,
21 job interview offers, recalls to return to work, and any other offers of work received
22 or responded to by the claimant since the prior week's verification, as further

ASSEMBLY BILL 169**SECTION 2**

1 prescribed by the department. The search for suitable work must include at least 4
2 actions per week that constitute a reasonable search as prescribed by rule of the
3 department. In addition, the department may, by rule, require a claimant to take
4 more than 4 reasonable work search actions in any week. The department shall
5 require a uniform number of reasonable work search actions for similar types of
6 claimants.

7 **SECTION 3.** 108.04 (2) (ae) of the statutes is renumbered 108.04 (2) (ae) 2.

8 **SECTION 4.** 108.04 (2) (ae) 1. of the statutes is created to read:

9 108.04 (2) (ae) 1. In determining whether a claimant is available for work
10 under par. (a) 1. and has maintained an attachment to the labor market, the
11 department shall consider reports made by employing units under sub. (1) (hg).

12 **SECTION 5.** 108.04 (2) (bm) of the statutes is amended to read:

13 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
14 which there is a determination that the claimant failed to comply with the
15 registration for work and work search requirements under par. (a) 2. or 3. or failed
16 to provide verification to the department that the claimant complied with those
17 requirements, unless the department has waived those requirements under par.
18 (b), (bb), or (bd) or s. 108.062 (10m). If the department has paid benefits to a
19 claimant for any such week, the department ~~may~~ shall act to recover the
20 overpayment under s. 108.22.

21 **SECTION 6.** 108.04 (2) (g) 2. of the statutes is amended to read:

22 108.04 (2) (g) 2. If a claimant's security credentials are used in the filing of an
23 initial or continued claim for benefits or any other transaction, the individual using
24 the security credentials is presumed to have been the claimant or the claimant's

ASSEMBLY BILL 169**SECTION 6**

1 authorized agent. This presumption may be rebutted by a preponderance of
2 evidence showing that the claimant who created the security credentials or the
3 claimant's authorized agent was not the person who used the credentials in a given
4 transaction. If a claimant uses an agent to engage in any transaction with the
5 department using the claimant's security credentials, the claimant is responsible
6 for the actions of the agent. If a claimant who created security credentials or the
7 claimant's authorized agent divulges the credentials to another person, or fails to
8 take adequate measures to protect the credentials from being divulged to an
9 unauthorized person, and the department pays benefits to an unauthorized person
10 because of the claimant's action or inaction, the department ~~may recover from the~~
11 ~~claimant the benefits that were paid to the unauthorized person shall~~, in the same
12 manner as provided for overpayments to claimants under s. 108.22 or under s.
13 108.245, act to recover from the claimant the benefits that were paid to the
14 unauthorized person. If a claimant who created security credentials or the
15 claimant's authorized agent divulges the credentials to another person, or fails to
16 take adequate measures to protect the credentials from being divulged to an
17 unauthorized person, the department is not obligated to pursue recovery of, or to
18 reimburse the claimant for, benefits payable to the claimant that were erroneously
19 paid to another person.

20 **SECTION 7.** 108.04 (2) (hL) of the statutes is created to read:

21 108.04 (2) (hL) 1. Subject to subd. 2., if a claimant is subject to the
22 requirement under par. (a) 3. to conduct a reasonable search for suitable work for a
23 given week and the department determines, based upon the claimant's verification

ASSEMBLY BILL 169**SECTION 7**

1 under par. (a) 3. or based upon one or more credible reports received by the
2 department, that the claimant did any of the following, the claimant shall not be
3 considered to have conducted a reasonable search for suitable work in that week
4 under par. (a) 3.:

5 a. Declined a job interview offer.

6 b. Failed to respond to a job interview offer. For purposes of this subd. 1. b., a
7 claimant shall have 3 working days after receipt of a job interview offer to respond
8 to the offer, after which the offer shall be considered to have been declined.

9 c. Canceled or failed to attend a scheduled job interview.

10 2. A claimant may demonstrate to the department that a report described in
11 subd. 1. was inaccurate, that an interview was for a job that the claimant was not
12 required to accept under sub. (8) (d) to (em), that the claimant promptly attempted
13 to reschedule a canceled or missed interview under subd. 1. c., or that the claimant
14 had other good cause for the declination or failure reported. If the department so
15 determines, the report shall be disregarded for purposes of subd. 1.

16 **SECTION 8.** 108.04 (11) (cm) of the statutes is amended to read:

17 108.04 (11) (cm) If any person makes a false statement or representation in
18 order to obtain benefits in the name of another person, the benefits received by that
19 person constitute a benefit overpayment. Such person ~~may~~ shall, by a
20 determination or decision issued under s. 108.095, be required to repay the amount
21 of the benefits obtained and be assessed an administrative assessment in an
22 additional amount equal to the amount of benefits obtained.

ASSEMBLY BILL 169**SECTION 9**

1 **SECTION 9.** 108.14 (19) of the statutes is renumbered 108.14 (19) (intro.) and
2 amended to read:

3 108.14 **(19)** (intro.) No later than March 15 annually, the department shall
4 prepare and furnish to the council on unemployment insurance and to the chief
5 clerk of each house of the legislature, for distribution to the appropriate standing
6 committees under s. 13.172 (3), a report summarizing the department's activities
7 related to detection and prosecution of unemployment insurance fraud in the
8 preceding year. The department shall include all of the following in the report
9 information:

10 (a) Information about audits conducted by the department under sub. (20),
11 including the number and results of audits performed, in the previous year.

12 **SECTION 10.** 108.14 (19) (b) of the statutes is created to read:

13 108.14 **(19)** (b) Information on reports submitted by employing units under s.
14 108.04 (1) (hg) 1., including actions taken by the department in response to the
15 reports as required under s. 108.04 (1) (hg) 2. and their effect on claimants'
16 eligibility for benefits under s. 108.04 (2) (ae) 1. and (hL).

17 **SECTION 11.** 108.14 (21) of the statutes is amended to read:

18 108.14 **(21)** The department shall maintain a portal on the Internet that
19 allows ~~employers~~ employing units to log in and file with the department complaints
20 related to the administration of this chapter and reports under s. 108.04 (1) (hg).

21 **SECTION 12.** 108.14 (28) of the statutes is created to read:

22 108.14 **(28)** The department shall have in effect methods to address
23 circumstances in which an employee fails to return to work or to accept suitable

ASSEMBLY BILL 169**SECTION 12**

1 work without good cause as described in s. 108.04 (8) or in which the employee is
2 unavailable for work or unable to perform work under s. 108.04 (1) (a). The
3 methods shall include all of the following:

4 (a) Reporting methods, including a telephone line, an email address, and an
5 online portal, for an employing unit to notify the department when an employee
6 refuses an offer of work.

7 (b) A plain-language notice provided to employees by the department when
8 applying for benefits about the application of s. 108.04 (8) (a) to (c), including what
9 constitutes suitable work under s. 108.04 (8) (d) and (dm), and an employee's right
10 to fail to accept suitable work for good cause under s. 108.04 (8) (em); about the
11 application of s. 108.04 (1) (a); and including information on contesting the denial of
12 a claim that has been denied due to a report by an employing unit that an employee
13 failed to return to work, failed to accept suitable work, or was unavailable for work
14 or unable to perform work.

15 **SECTION 13.** 108.22 (8) (a) of the statutes is amended to read:

16 108.22 (8) (a) If benefits are erroneously paid to an individual, the
17 individual's liability to reimburse the fund for the overpayment ~~may~~ shall be set
18 forth in a determination or decision issued under s. 108.09. Any determination
19 ~~which~~ that establishes or increases an overpayment shall include a finding
20 concerning whether waiver of benefit recovery is required under par. (c). If any
21 decision of an appeal tribunal, the commission or any court establishes or increases
22 an overpayment and the decision does not include a finding concerning whether

ASSEMBLY BILL 169**SECTION 13**

1 waiver of benefit recovery is required under par. (c), the tribunal, commission or
2 court shall remand the issue to the department for a determination.

3 **SECTION 14. Initial applicability.**

4 (1) The renumbering of s. 108.04 (2) (ae), the amendment of s. 108.04 (2) (a) 3.,
5 and the creation of s. 108.04 (2) (ae) 1. and (hL) first apply to weeks of
6 unemployment beginning on the effective date of this subsection.

7 **SECTION 15. Effective dates.** This act takes effect on the Sunday after
8 publication, except as follows:

9 (1) The treatment of s. 108.14 (28) takes effect on the first Sunday after the
10 180th day after publication.

11 (END)

Fiscal Estimate - 2025 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 25-1126/1	Introduction Number AB-0169
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Description
 various changes to the unemployment insurance law

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Appropriations	
<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs	5.Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<input checked="" type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue		
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		
2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue		
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS s. 20.445(1)(n)	

Agency/Prepared By	Authorized Signature	Date
DWD/ Erin Blair (608) 405-4657	Lynda Jarstad (608) 261-2138	4/22/2025

Fiscal Estimate Narratives

DWD 4/22/2025

LRB Number	25-1126/1	Introduction Number	AB-0169	Estimate Type	Original
Description various changes to the unemployment insurance law					

Assumptions Used in Arriving at Fiscal Estimate

This bill provides that an employer may report to DWD whenever: 1) an individual declines a job interview or job offer, 2) an individual cancels or fails to respond to a job interview offer or job offer, 3) an individual fails to attend a scheduled job interview without attempting to promptly reschedule the job interview, 4) UI claimant is unavailable for, or unable to perform, work actually available within a given week, and 5) under certain circumstances when the employer recalls a former employee receiving UI benefits who fails to return to work. This bill adds the requirement that claimants verify with the department all job offers, job interview offers, recalls to return to work, and other offers of work received or responded to by the claimant, in addition to the requirement that claimants include at least 4 actions per week that constitute a reasonable search for suitable work. DWD will be required to consider these reports and investigate, as needed, to determine each week, a claimant's eligibility for benefits.

Additionally, this bill requires DWD to have in effect methods to address circumstances in which a claimant for UI benefits fails to return to work or to accept suitable work without good cause or is unavailable for work or unable to work, including reporting methods for employers and providing notification from DWD to claimants about the laws governing such circumstances.

Finally, the bill requires, instead of allows, DWD to act to recover overpayments in certain circumstances and requires overpayments to be repaid in cases where an individual makes misrepresentations to obtain benefits in the name of another person.

The estimated fiscal impact of this bill is an increase in administrative costs, and an indeterminate increase in the UI Trust Fund balance and in ongoing administrative costs.

The employer reporting provisions added under the bill at 108.04 (1) (hg) are optional to employers. For the purposes of this fiscal estimate, it is assumed that these optional employer actions will not cause a material increase of employer responses submitted to DWD. However, to implement the process specified under the bill to accept submitted employer responses, modifications are needed to the department's current systems that process and manage communications from employers about objections. The required IT work is estimated at 190 hours for a one-time IT cost of \$18,240 and related administrative support cost estimated to cost \$6,019. The costs for IT and related administrative support work are estimated to be one-time.

A minor, indeterminate, increase to the UI Trust Fund balance is estimated to result from the bill's changes to optional employer reporting and a potential indeterminate administrative impact. A small number of new reports are estimated to be made to the department under the bill's employer reporting changes. A portion of the new reporting could result in a small increase in the number of claims that fail to meet the new requirements under the bill, resulting in a minor, indeterminate, increase to the UI Trust Fund balance. A portion of the new reporting could also result in an increase in new appeals or hearings to determine good cause, but the potential increase is indeterminate at this time.

Because Local Governments typically pay UI benefits for their employees directly, this bill could reduce their benefit costs, but the estimated impact to local governments is indeterminate at this time.

Long-Range Fiscal Implications

D25-01
Electronic Communication and Filing

Date: April 16, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Electronic Communication and Filing

1. Description of Proposed Change

Employers must file quarterly tax and wage reports showing the names, Social Security numbers, and wages paid to their employees. Employers with at least 25 employees must file those reports electronically, but all employers may file electronically. Electronic filing is more efficient for employers, ensures that reports are not lost in the mail, and reduces administrative costs for the Department. Employers who make contribution payments of at least \$10,000 annually must make those payments by electronic funds transfer but any employer may do so. Currently, about 96% of employers file their tax and wage reports electronically and pay their contributions electronically. Current law also permits the Department to electronically communicate with those who opt for that form of communication—though not all Department communication can currently be sent electronically.

In 2024, the UI Advisory Council approved a Department proposal to make the electronic filing, electronic payment, and electronic communication provisions mandatory unless the person demonstrates good cause for being unable to use the electronic method. The 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, includes a proposal identical to the one approved by the Council in 2024. In the Budget Bill, “good cause” is defined to include employers with limited or no internet connection, the filer having digital literacy concerns, the filer having communication barriers (such as a vision disability or other disability that prevents the ease of electronic filing, or being an individual with limited English proficiency), or other circumstances that make electronic filing unusually difficult, as determined by the Department. The Budget Bill also

D25-01
Electronic Communication and Filing

provides that the Department may use electronic records and electronic signatures. The provision related to electronic communication would be effective when the Department has the technological capability to fully implement it. The tax filing and payment provisions would be effective on January 1, 2027, so that employers have enough time to adjust to the new electronic filing and payment requirements.

The Department continues to modernize its unemployment insurance information technology systems with the expectation that a new system will result in administrative efficiencies for the Department and better customer service. This proposal will ensure the maximization of such efficiencies and service improvements while safeguarding the rights of those whose access to electronic means is severely limited or unavailable.

2. Proposed Statutory Changes

The proposed statutory changes would be identical to the UI Advisory Council-approved language from 2024 except that the effective date would be January 1, 2027 instead of February 1, 2025.

Section 108.14 (2e) of the statutes is amended to read:

108.14 (2e) The department ~~may~~ shall provide a secure means of electronic interchange between itself and employing units, claimants, and other persons that, ~~upon request to and with prior approval by the department, may~~ shall be used for departmental transmission or receipt of any document specified by the department that is related to the administration of this chapter and related federal programs in lieu of any other means of submission or receipt specified in this chapter. The secure means of electronic interchange shall be used by employing units, claimants, and other persons unless the person demonstrates good cause, as specified in s. 108.022, for being unable to use the secure means of electronic interchange. Subject to s. 137.25 (2) and any

D25-01
Electronic Communication and Filing

rules promulgated thereunder, the department may permit the use of electronic records and electronic signatures for any document specified by the department that is related to the administration of this chapter. If a due date is established by statute for the receipt of any document that is submitted electronically to the department under this subsection, then that submission is timely only if the document is submitted by midnight of the statutory due date.

Section 108.17 (2) of the statutes is amended to read:

108.17 (2) (a) Except as provided in par. (b) and subject to sub. (2b) and s. 108.185, every employer that is subject to a contribution requirement shall file quarterly reports of contributions required under this chapter with the department, and pay contributions to the department, in such manner as the department prescribes. Each contribution report and payment is due at the close of the month next following the end of the applicable calendar quarter, except as authorized in sub. (2c) or as the department may assign a later due date pursuant to sub. (1m) or general department rules.

(b) The department may electronically provide a means whereby an employer that files its employment and wage reports electronically may determine the amount of contributions due for payment by the employer under s. 108.18 for each quarter. If an employer that is subject to a contribution requirement files its employment and wage reports under s. 108.205 (1) electronically, in the manner prescribed by the department ~~for purposes of this paragraph under s. 108.205 (2),~~ the department may require the employer to determine electronically the amount of contributions due for payment by the employer under s. 108.18 for each quarter. In such case, the employer is excused from filing contribution reports under par. (a). The employer shall pay the amount due for each quarter by the due date specified in par. (a).

D25-01
Electronic Communication and Filing

Section 108.17 (2b) of the statutes is amended to read:

108.17 (2b) The department shall prescribe a form and methodology for filing contribution reports under sub. (2) electronically. Each employer of ~~25 or more employees, as determined under s. 108.22 (1) (ae), that does not use an and employer agent to file its contribution reports under this section~~ shall file its contribution reports electronically in the manner and form prescribed by the department. ~~Each employer that becomes subject to an electronic reporting requirement under this subsection shall file its initial report under this subsection for the quarter during which the employer becomes subject to the reporting requirement. Once an employer becomes subject to a reporting requirement under this subsection, it shall continue to file its reports under this subsection unless that requirement is waived by the department unless the employer demonstrates good cause, as specified in s. 108.022, for being unable to file contribution reports electronically.~~

Section 108.17 (2g) of the statutes is repealed.

Section 108.17 (7) of the statutes is repealed.

Section 108.185 of the statutes is created to read:

108.185 Payment of contributions and reimbursements; good cause. Each employer, employer agent, person liable under s. 108.22 (9), and private agency liable under s. 108.22 (10) shall pay all contributions, reimbursements, interest, penalties, assessments, and other amounts due under this chapter by means of electronic funds transfer or another electronic method as approved by the department unless the employer, employer agent, person, or private agency demonstrates good cause, as specified in s. 108.022, for being unable to pay such amounts electronically.

Section 108.205 (1m) of the statutes is repealed.

D25-01
Electronic Communication and Filing

Section 108.205 (2) of the statutes is amended to read:

108.205 (2) Each employer of ~~25 or more employees, as determined under s. 108.22 (1) (ae), that does not use an employer agent to file its reports under this section~~ and employer agent shall file the quarterly report under sub. (1) electronically in the manner and form prescribed by the department. ~~An employer that becomes subject to an electronic reporting requirement under this subsection shall file its initial report under this subsection for the quarter during which the employer becomes subject to the reporting requirement. Once an employer becomes subject to the reporting requirement under this subsection, the employer shall continue to file its quarterly reports under this subsection unless that requirement is waived by the department unless the employer demonstrates good cause, as specified in s. 108.022, for being unable to file reports electronically.~~

Section 108.22 (1) (ac) of the statutes is amended to read:

108.22 (1) (ac) In addition to any fee assessed under par. (a), the department may assess an employer or employer agent that is subject to the reporting requirement under s. 108.205 (2) and that fails to file its report in the manner and form prescribed under that subsection a penalty of \$20 for each employee whose information is not reported in the that manner and form ~~prescribed under s. 108.205 (1m) (b) or (2).~~

Section 108.22 (1) (ad) 1. of the statutes is amended to read:

108.22 (1) (ad) 1. An employer agent that is subject to the reporting requirements under s. 108.17 ~~(2g) (2b)~~ and that fails to file a contribution report in accordance with s. 108.17 ~~(2g) (2b)~~ may be assessed a penalty by the department in the amount of \$25 for each employer whose report is not filed electronically in the manner and form prescribed by the department.

D25-01
Electronic Communication and Filing

Section 108.22 (1) (af) of the statutes is amended to read:

108.22 (1) (af) In addition to the fee assessed under par. (a), the department may assess ~~an~~ ~~employer or employer agent~~ a person that is ~~subject to a requirement~~ required to make ~~contributions~~ a payment to the department by means of an electronic ~~funds transfer~~ method under s. ~~108.17(7)~~ 108.185 and that ~~pays contributions~~ makes the payment by any method inconsistent with s. ~~108.17(7)~~ 108.185 a penalty of the greater of \$50 or an amount equal to one-half of ~~one~~ 1 percent of the total ~~contributions~~ amount paid by the ~~employer or employer agent~~ person for the quarter in which the violation occurs

3. Effects of Proposed Change

- a. **Policy:** The proposed change will result in increased efficiencies and improved experiences for claimants and employers.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

The treatment of section 108.14 (2e) will take effect on the date specified in the notice published in the register. The other provisions will take effect on January 1, 2027.

D25-01
Electronic Communication and Filing

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Currently, with certain exceptions, each employer that has employees who are engaged in employment covered by the UI law must file quarterly contribution (tax) and employment and wage reports and make quarterly contribution payments to DWD. An employer of 25 or more employees or an employer agent that files reports on behalf of any employer must file its reports electronically. Current law also requires each employer that makes contributions for any 12-month period ending on June 30 equal to a total of at least \$10,000 to make all contribution payments electronically in the following year. Finally, current law allows DWD to provide a secure means of electronic interchange between itself and employing units, claimants, and other persons that, upon request to and with prior approval by DWD, may be used for transmission or receipt of any document specified by DWD that is related to the administration of the UI law in lieu of any other means of submission or receipt.

This proposal makes use of these electronic methods mandatory in all cases unless the employer or other person demonstrates good cause for being unable to use the electronic method. This proposal specifies what constitutes good cause for purposes of these provisions. This proposal also makes various corresponding changes to penalty provisions that apply in the case of nonuse of these required electronic methods. This proposal further provides that DWD may permit the use of electronic records and electronic signatures for any document specified by DWD that is related to the administration of the UI law.

UI Trust Fund Impact:

This proposal is not expected to have an impact on the UI Trust Fund.

IT and Administrative Impact:

The Department has begun the process of modernizing its unemployment insurance information technology systems with the expectation that a new system will result in administrative efficiencies for the Department and better service for employers and claimants. This proposal will ensure the maximization of such efficiencies and service improvements.

If this proposal is implemented as a part of a new system, then the IT costs and administrative impacts will be attributed to that modernization effort.

UI Trust Fund Methodology:

There is not expected to be an impact on the UI Trust Fund. This proposal is expected to increase administrative efficiency.

IT and Administrative Impact Methodology:

Implementation is expected to be a part of a modernization effort.

D25-02
Worker Misclassification Penalties

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Worker Misclassification Penalties

1. Description of Proposed Change

Administrative and criminal penalties were created, as part of the 2015-2016 UIAC Agreed Bill, for employers who intentionally misclassify their workers as independent contractors. The current penalties only apply to construction employers and are:

1. \$500 administrative penalty for each employee who is misclassified, but not to exceed \$7,500 per incident.
2. \$1,000 criminal fine for each employee who is misclassified, subject to a maximum fine of \$25,000 for each violation, but only if the employer has previously been assessed a administrative penalty for misclassified workers.
3. \$1,000 administrative penalty for each individual coerced to adopt independent contractor status, up to \$10,000 per calendar year.

The administrative penalties are deposited into the Department's program integrity fund, which is used, in part, to fund the costs of staff who investigate employee classification.

The Joint Task Force on Payroll Fraud and Worker Misclassification recommended that the penalties for intentional worker misclassification be structured to deter repeat violations.¹ The Budget Bill (2025 AB 50 / 2025 SB 45) proposes to amend the administrative penalties statutes by having the penalties potentially apply to all employers. The Bill also eliminates the \$7,500 and \$10,000 caps on the administrative penalties and doubles the penalties for subsequent violations. The Bill amends the criminal penalties to potentially apply to any employer.

¹ [Joint Task Force on Payroll Fraud and Worker Misclassification 2020 Report](#), p. 10.

D25-02
Worker Misclassification Penalties

2. Proposed Statutory Changes²

Section 108.221 (1) (a) of the statutes is renumbered 108.221 (1) (a) (intro.) and amended to read:

Any employer ~~described in s. 108.18 (2) (c) or engaged in the painting or drywall finishing of buildings or other structures~~ who knowingly and intentionally provides false information to the department for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee shall, for each incident, be assessed a penalty by the department as follows:

1. For each act occurring before the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$500 for each employee who is misclassified, but not to exceed \$7,500 per incident.

Section 108.221 (1) (a) 2. of the statutes is created to read:

For each act occurring after the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$1,000 for each employee who is misclassified.

Section 108.221 (2) of the statutes is renumbered 108.221 (2) (intro.) and amended to read:

Any employer ~~described in s. 108.18 (2) (c) or engaged in the painting or drywall finishing of buildings or other structures~~ who, through coercion, requires an individual to adopt the status of a nonemployee shall be assessed a penalty by the department as follows:

- (a) For each act occurring before the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$1,000 for each individual so coerced, but not to exceed \$10,000 per calendar year.

² Subject to revision to ensure cross-references are corrected.

D25-02
Worker Misclassification Penalties

Section 108.221 (2) (b) of the statutes is created to read:

For each act occurring after the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$2,000 for each individual so coerced.

Section 108.24 (2m) of the statutes is amended to read:

Any employer ~~described in s. 108.18 (2) (c) or engaged in the painting or drywall finishing of buildings or other structures~~ who, after having previously been assessed an administrative penalty by the department under s. 108.221 (1), knowingly and intentionally provides false information to the department for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee shall be fined \$1,000 for each employee who is misclassified, subject to a maximum fine of \$25,000 for each violation. The department may, regardless of whether an employer has been subject to any administrative assessment under s. 108.221 or any other penalty or assessment under this chapter, refer violations of this subsection for prosecution by the department of justice or the district attorney for the county in which the violation occurred.

3. Effects of Proposed Change

- a. **Policy:** The proposed change will permit the Department to assess administrative penalties against any employer that intentionally misclassifies workers as independent contractors and will increase the amount of the penalties for subsequent violations.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

D25-02
Worker Misclassification Penalties

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would be effective for employees misclassified after the law change is enacted.

D25-02

Worker Misclassification Penalties

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Current law requires DWD to assess an administrative penalty against an employer engaged in construction projects or in the painting or drywall finishing of buildings or other structures who knowingly and intentionally provides false information to DWD for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee under the UI law. The penalty under current law is \$500 for each employee who is misclassified, not to exceed \$7,500 per incident. In addition, current law provides for criminal fines of up to \$25,000 for employers who, after having previously been assessed such an administrative penalty, commit another violation. Current law additionally requires DWD to assess an administrative penalty against such an employer who, through coercion, requires an employee to adopt the status of a nonemployee; the penalty amount is \$1,000 for each employee so coerced, but not to exceed \$10,000 per calendar year. Penalties are deposited into the UI Program Integrity Fund.

The proposal does the following: 1) removes the \$7,500 and \$10,000 limitations on the administrative penalties and provides that the penalties double for each act occurring after the date of the first determination of a violation; 2) removes the limitations on the types of employers to whom the prohibitions apply, making them applicable to any type of employer; and 3) specifies that DWD may make referrals for criminal prosecution for alleged criminal misclassification violations regardless of whether an employer has been subject to any other penalty or assessment under the UI law.

UI Trust Fund Impact:

This proposal is expected to have a positive but indeterminate impact on the UI Trust Fund.

IT and Administrative Impact:

The ongoing administrative impact to the UI program is indeterminate. There is no anticipated IT impact.

UI Trust Fund Methodology:

Because of the incentive this proposal creates for employers to correctly register as an employer and correctly list employees to avoid penalties, it is expected to have a positive but indeterminate impact on the UI Trust Fund.

IT and Administrative Impact Methodology:

The ongoing administrative impact to the UI program is indeterminate. There is no anticipated IT impact.

D25-03
Repeal Waiting Week

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Repeal Waiting Week

1. Description of Proposed Change

The 2011 Budget, 2011 Wis. Act 32, established a waiting week for unemployment insurance benefits, effective January 2012, which had not existed since 1977. During the pandemic, the waiting week was suspended because the federal government provided full funding of benefits for the first week of unemployment.

For every new benefit year, no benefits are payable for the first week a claimant would otherwise be eligible for benefits. The waiting week may be a week in which full or partial benefits are payable. The waiting week does not reduce a claimant's maximum benefit amount. A waiting period delays payments to qualified UI claimants that would otherwise spend the funds in Wisconsin supporting our state's economy. USDOL's Comparison of State Unemployment Laws 2023 reports that eight states do not have a waiting week.

Several legislative attempts have been made to eliminate the one-week waiting period including 2013 Assembly Bill 374, 2015 Assembly Bill 318, and Governor's 2021-23 Executive Budget. The 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, would repeal the waiting week.

Like the 2025 Budget Bill, this proposal would repeal the one-week waiting week for unemployment insurance benefits.

D25-03
Repeal Waiting Week

2. Proposed Statutory Changes¹

Section 108.02 (26m) of the statutes is repealed.

~~Waiting Period. “Waiting period” means any period of time under s. 108.04 (3) for which no benefits are payable to a claimant as a condition precedent to receipt of benefits.~~

Section 108.04 (3) of the statutes is repealed.

~~(a) Subject to par. (b), the first week of a claimant’s benefit year for which the claimant has timely applied and is otherwise eligible for regular benefits under this chapter is the claimant’s waiting period for that benefit year.~~

~~(b) Paragraph (a) does not apply with respect to benefit years that begin after March 12, 2020, and before March 14, 2021. The department shall seek the maximum amount of federal reimbursement for benefits that are, during the time period specified in this paragraph, payable for the first week of a claimant’s benefit year as a result of the application of this paragraph.~~

Section 108.04 (11) (bm) of the statutes is amended to read:

The department shall apply any ineligibility under par. (be) against benefits and weeks of eligibility for which the claimant would otherwise be eligible after the week of concealment and within 6 years after the date of an initial determination issued under s. 108.09 finding that a concealment occurred. ~~The claimant shall not receive waiting period credit under s. 108.04 (3) for the period of ineligibility applied under par. (be).~~ If no benefit rate applies to the week for which the claim is made, the department shall use the claimant’s benefit rate for the claimant’s next benefit year beginning after the week of concealment to determine the amount of the benefit reduction.

¹ Additional cross-references may be amended.

D25-03
Repeal Waiting Week

3. Effects of Proposed Change

- a. Policy. The proposed change would result in increased payment of unemployment insurance benefits to claimants who do not exhaust their benefit duration limit.
- b. Administrative. This proposal will require training of Department staff.
- c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would apply to benefit years beginning on the effective date of the

D25-03
Repeal Waiting Week

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Currently, a claimant does not receive weekly UI benefits until one week after becoming eligible, except for periods during which the waiting week is suspended. The one-week waiting period does not affect the maximum number of weeks a claimant is eligible for benefits.

This proposal repeals the one-week waiting period, thus permitting a claimant to receive UI benefits beginning with their first week of eligibility.

UI Trust Fund Impact:

This proposal is expected to reduce the UI Trust Fund by approximately \$12 million annually.

IT and Administrative Impact:

There is not expected to be any measurable IT or administrative impact.

UI Trust Fund Methodology:

The elimination of the waiting week is expected to increase UI benefits by approximately 5%. For 2024, this would lead to an additional \$18 million in benefits charged to the UI Trust Fund and an increase of \$6 million in UI tax contributions. This is estimated to result in an expected reduction in the UI Trust Fund of \$12 million annually.

IT and Administrative Impact Methodology:

Changes made during the COVID-19 pandemic allow the waiting period to be paused without any IT changes.

D25-04
Increase Maximum Weekly Benefit Rate

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Increase Maximum Weekly Benefit Rate

1. Description of Proposed Change

2013 Wis. Act 36 increased the maximum weekly benefit rate for unemployment insurance benefits from \$363 to \$370 starting January 2014. The maximum weekly benefit rate has not increased since then.

The 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, would increase the maximum weekly benefit rate from \$370 to \$497 per week for 2026. In January 2027 and each year thereafter, the maximum weekly benefit rate would be increased based on the consumer price index. If the consumer price index does not increase, then the maximum weekly benefit rate would remain the same.

Unemployment benefits, funded by employer contributions, provide temporary economic assistance to Wisconsin's eligible workers during times of unemployment. By contributing to the UI system, Wisconsin employers protect the pool of highly skilled workers and reduce the likelihood that workers affected by a layoff or temporary downturn will take their skills and talents to other states. Wisconsin maximum weekly benefit rate at \$370 is significantly lower than neighboring states: Minnesota maximum weekly benefit rate \$914; Illinois, \$593; and Iowa, \$602. Michigan passed legislation to increase its maximum weekly benefit rate to \$614 over the next three years and then increase the rate by the Consumer Price Index annually thereafter.

This proposal mirrors the 2025 Budget Bill's proposal pertaining to maximum weekly benefit.

D25-04
Increase Maximum Weekly Benefit Rate

2. Proposed Statutory Changes¹

Section 108.05 (1) (cm) of the statutes is created to read:

108.05 (1) (cm) For purposes of par. (r), the department shall set the maximum weekly benefit amount as follows:

1. For benefits paid for a week of total unemployment that commences on or after January 5, 2014, but before January 4, 2026, \$370.
2. For benefits paid for a week of total unemployment that commences on or after January 4, 2026, but before January 3, 2027, \$497
3. For benefits paid for a week of total unemployment that commences on or after January 3, 2027, the department shall set the maximum weekly benefit amount as provided under sub. (2).

Section 108.05 (1) (r) of the statutes is renumbered 108.05 (1) (r) (intro.) and amended to read:

(intro.) Except as provided in s. 108.062 (6) (a), each eligible employee shall be paid benefits for each week of total unemployment ~~that commences on or after January 5, 2014, at the a~~ weekly benefit rate ~~specified in this paragraph. Unless sub. (1m) applies, the weekly benefit rate shall~~ equal to 4 percent of the employee's base period wages that were paid during that quarter of the employee's base period in which the employee was paid the highest total wages, rounded down to the nearest whole dollar, except that, if that amount as provided under sub. (1m) and except as follows:

1. If the employee's weekly benefit rate calculated under this paragraph is less than \$54, no benefits are payable to the employee and, if that amount.

¹ Subject to revision to ensure cross-references are corrected.

D25-04

Increase Maximum Weekly Benefit Rate

2. If the employee's weekly benefit rate is more than \$370 the maximum weekly benefit amount specified in par. (cm), the employee's weekly benefit rate shall be \$370 and except that, if the maximum weekly benefit amount specified in par. (cm).

3. If the employee's benefits are exhausted during any week under s. 108.06 (1), the employee shall be paid the remaining amount of benefits payable to the employee under s. 108.06 (1).

(s) The department shall publish on its Internet site a weekly benefit rate schedule of quarterly wages and the corresponding weekly benefit rates as calculated in accordance with this paragraph subsection.

108.05 (2) of the statutes is created to read:

INDEXING. (a) For benefits paid or payable for a week that commences on or after January 3, 2027, the department shall set the maximum weekly benefit amount under sub. (1) (cm) 3. and the wage limitation under sub. (3) (dm) 2. c. by doing the following:

1. Except as provided in subd. 2., calculating the percentage difference between the consumer price index for the 12-month period ending on July 31 of the prior year and the consumer price index for the 12-month period ending on July 31 of the year before the prior year, adjusting the prior year's amount or limitation by that percentage difference, and rounding that result to the nearest whole dollar.

2. If the consumer price index for the 12-month period ending on July 31 of the prior year has not increased over the consumer price index for the 12-month period ending on July 31 of the year before the prior year, setting the amount or limitation at the same amount or limitation that was in effect in the previous year.

D25-04
Increase Maximum Weekly Benefit Rate

(b) An adjustment under this subsection of the maximum weekly benefit amount under sub. (1) (cm) 3. and the wage limitation under sub. (3) (dm) 2. c. shall take effect on the 1st Sunday in January of each calendar year.

3. Effects of Proposed Change

- a. Policy. The proposed change would increase the maximum weekly benefit rate to reflect increases in the average weekly wage.
- b. Administrative. This proposal will require training of Department staff.
- c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would be effective for weeks of unemployment beginning January 4, 2026.

D25-04

Increase Maximum Weekly Benefit Rate

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Under current law, a person who qualifies for UI receives a weekly benefit rate equal to a percentage of that person's past earnings, but the maximum weekly benefit rate is \$370. The proposal changes the maximum weekly benefit rate in the following ways:

1. For benefits paid for weeks of unemployment beginning on or after January 4, 2026, but before January 3, 2027, the maximum weekly benefit rate is \$497.
2. For benefits paid for weeks of unemployment beginning on or after January 3, 2027, the maximum weekly benefit rate is increased based upon the change in the consumer price index; it is then increased on the same basis annually thereafter.

UI Trust Fund Impact:

This proposal is expected to reduce the UI Trust Fund by \$87.2 million annually.

IT and Administrative Impact:

This proposal is expected to have a one-time cost of \$130,560 for IT changes to implement the increase in the weekly benefit rate and allow for the annual increase following the consumer price index. There would be an administrative cost of \$39,168 for UI staff to implement the program. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

An increase in the maximum weekly benefit rate to \$497 per week would increase UI benefit payments by approximately \$131 million per year based upon recalculating 2023 benefit years at the \$497 maximum weekly benefit rate and 12.2 weeks of paid duration. Of the \$131 million, \$8.5 million would be charged to reimbursable employers. The remaining \$122.5 million would be charged to taxable employer accounts. In time, this would lead to an increase in UI taxes of \$41 million per year. The final calculation would reduce the UI Trust Fund by approximately \$81.5 million per year.

Using the recalculated benefit years and estimates for inflation for the price level in 2027, an increase of UI benefit payments by approximately \$9.1 million annually would occur. Of this amount, \$0.6 million would be charged to reimbursable employers with \$8.5 million charged to taxable employer accounts. UI taxes would increase by approximately \$2.8 million annually leaving a reduction to the UI Trust Fund of approximately \$5.7 million annually.

The total impact would then be a \$87.2 million reduction in the UI Trust Fund annually.

IT and Administrative Impact Methodology:

DWD estimates a cost of \$130,560 to implement the IT changes to the UI benefit system if implemented while the benefits system is on the mainframe before modernization, as well as an administrative cost to implement such programs of \$39,168.

D25-05

Increase and Index Maximum Wage Cap for the Partial Benefit Formula

Date: April 17, 2025

Proposed by: DWD

Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE

Increase and Index Maximum Wage Cap for the Partial Benefit Formula

1. Description of Proposed Change

The 2011 Unemployment Insurance Advisory Council agreed bill, 2011 Wis. Act 198, capped the amount of wages that a claimant may earn and still receive partial benefits at \$500. Before Act 198, there was no wage cap in the statute, but a claimant would not receive unemployment benefits if they earned more wages than the partial benefit formula allowed. Section 108.05(3)(dm) currently provides that claimants are ineligible for benefits if they receive from one or more employers:

- Wages earned for work performed in that week of more than \$500, or
- Holiday, vacation, termination or sick pay which, alone or combined with wages earned for work performed in that week, equals more than \$500.

Claimants are also ineligible for partial benefits if they work 32 hours or more in a week.

The 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, would increase the \$500 weekly maximum earned income disqualification to \$672 for 2026. In January 2027 and each year thereafter, the cap would be increased based on the consumer price index. This proposal mirrors the Budget Bill provision.

D25-05

Increase and Index Maximum Wage Cap for the Partial Benefit Formula

2. Proposed Statutory Changes¹

Section 108.05 (3) (dm) of the statutes is renumbered 108.05 (3) (dm) 1. and amended to read:

Except when otherwise authorized in an approved work-share program under s. 108.062, a claimant is ineligible to receive any benefits for a week if the claimant receives or will receive from one or more employers wages earned for work performed in that week, amounts treated as wages under s. 108.04 (1) (bm) for that week, sick pay, holiday pay, vacation pay, termination pay, bonus pay, back pay, or payments treated as wages under s. 108.04 (12) (e), or any combination thereof, ~~totaling~~ totaling more than \$500 the amount determined under subd. 2.

Section 108.05 (3) (dm) 2. of the statutes is created to read:

The department shall set the wage limitation under subd. 1. as follows:

- a. For a week of unemployment that commences before January 4, 2026, \$500.
- b. For a week of unemployment that commences on or after January 4, 2026, but before January 3, 2027, \$672.
- c. For a week of unemployment that commences on or after January 3, 2027, the department shall set the wage limitation as provided under sub. (2).

[The indexing for future years would be calculated based on the consumer price index method proposed for the maximum weekly benefit rate increase.]

3. Effects of Proposed Change

- a. Policy. The proposed change would result in a significant increase to the maximum wage cap for the partial benefit formula for 2026 followed by slight increases to the maximum wage cap for the partial benefit formula each year after 2026.
- b. Administrative. This proposal will require training of Department staff.

¹ Additional cross-references may be amended.

D25-05
Increase and Index Maximum Wage Cap for the Partial Benefit Formula

c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would be effective for weeks of unemployment beginning January 4, 2026.

D25-05

Increase and Index Maximum Wage Cap for the Partial Benefit Formula

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Under current law, a person who qualifies for UI is ineligible to receive any UI benefits for a week if the person receives or will receive wages or certain other earnings totaling more than \$500 (wage cap) or if they work 32 hours or more per week. The proposal changes the wage cap in the following ways:

1. For weeks of unemployment beginning on or after January 4, 2026, but before January 3, 2027, the wage cap is increased to \$672.
2. For weeks of unemployment beginning on or after January 3, 2027, the wage cap is increased based upon the change in the consumer price index and is then increased on the same basis annually thereafter.

UI Trust Fund Impact:

Assuming the current \$370 maximum weekly benefit rate, this proposal is expected to reduce the UI Trust Fund by \$240,000 annually.

Assuming a \$497 maximum weekly benefit rate, this proposal is expected to reduce the UI Trust Fund by \$1.8 million annually.

IT and Administrative Impact:

This proposal is estimated to have a one-time IT cost of \$52,800. This proposal has an estimated one-time administrative cost of \$15,840. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

Previously it was estimated that removing the weekly wage cap while leaving the 32-hour limit in place would have no impact on the UI Trust Fund since the 32-hour limit was still constraining claimants from receiving payments. However, with recent increases in wages, this is no longer the case.

It is important to note that changing the statutory weekly wage cap does not change the maximum earnings allowable under the partial wage formula. If earnings reduce a payment below the minimum \$5 per week, no payment is made for that week. Assuming there is no earnings cap, for a \$370 maximum weekly benefit rate, a claimant may earn up to \$574.77 and still remain eligible for a \$5 payment if they were working fewer than 32 hours. Analyzing all weekly claims that reported wages and hours worked in 2024 and assuming all weeks qualified for the maximum weekly benefit rate, there were 11,574 weekly claims that would receive a payment at the higher weekly wage cap after considering the 32-hour limit. These weeks would receive, on average, a partial weekly benefit of \$33, leading to an increase in UI benefit payments of approximately \$385,000 annually. Of this amount, \$25,000 would be expected to be paid by reimbursable employers. UI tax contributions would be expected to increase by \$120,000 annually. This results in an expected reduction in the UI Trust Fund of \$240,000 annually.

D25-05

Increase and Index Maximum Wage Cap for the Partial Benefit Formula

Assuming a \$497 maximum weekly benefit rate, the proposed weekly wage cap is determinative, since at \$497, the partial wage formula maximum earnings amount is calculated to be \$764.32 (higher than the proposed wage cap of \$672). The higher maximum weekly benefit rate will also increase partial weekly payment amounts made. Analyzing 2024 claims that reported weekly earnings, considering the 32-hour limit, and assuming all claims qualify for the proposed \$497 maximum weekly benefit rate, there would be 21,697 weekly claims that would be payable. On average, such claims would have a weekly benefit amount of \$133 leading to an increase in UI benefits of \$2.9 million annually. Of this amount, \$200,000 would be expected to be paid by reimbursable employers. UI tax contributions would be expected to increase by \$900,000 annually. This results in an expected reduction in the UI Trust Fund of \$1.8 million annually.

IT and Administrative Impact Methodology:

DWD estimates a cost of \$52,800 including changes to the claimant portal, payment processing, and the UI benefit system in general if implemented before those systems are modernized, as well as an administrative cost of \$15,840.

D25-06

Amend Social Security Disability Insurance Disqualification

Date: April 17, 2025

Proposed by: DWD

Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Amend Social Security Disability Insurance Disqualification

1. Description of Proposed Change

Currently, recipients of federal Social Security Disability Insurance (“SSDI”) payments are ineligible for unemployment insurance benefits under s. 108.04(12)(f). Recipients of pension payments are eligible for unemployment insurance benefits, but the unemployment benefit is reduced by the pension payment (s. 108.05(7)). Allowing SSDI recipients to be eligible for UI benefits would treat workers with disabilities similar to recipients of pension payments.

Further, in *Bemke, et al v. Pechacek*, W.D. Wis. Case No. Case 3:21-cv-00560-wmc, a federal district court recently found that the prohibition on SSDI recipients receiving UI benefits, while not motivated by discriminatory animus, has a disparate impact on disabled persons under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973. While that litigation is not final, based on its decision on motions for summary judgment, it appears likely that the court will invalidate this provision of Wisconsin's UI law.

The Budget Bill (2025 AB 50 / 2025 SB 45) proposes to amend the prohibition on receipt of UI for SSDI recipients by reducing the amount of weekly UI benefits by the proportionate amount of the claimant’s SSDI payment.

Under this proposal, a claimant who receives \$1,000 monthly in SSDI and would otherwise be eligible for \$300 weekly in UI would receive a weekly UI payment of \$69.¹

¹ This calculation is preliminary and subject to revision.

D25-06

Amend Social Security Disability Insurance Disqualification

2. Proposed Statutory Changes

Section 108.04 (2) (h) of the statutes is amended to read:

A claimant shall, when the claimant first files a claim for benefits under this chapter and during each subsequent week the claimant files for benefits under this chapter, inform the department whether he or she is receiving social security disability insurance payments, as defined in ~~sub. (12)~~ ~~(f) 2m~~ s. 108.05 (7m) (b). If the claimant is receiving social security disability insurance payments, the claimant shall, in the manner prescribed by the department, report to the department the amount of the social security disability insurance payments.

Section 108.04 (12) (f) 1m. and 2m. of the statutes are renumbered 108.05 (7m) (a) and (b) and amended to read:

(a) The intent of the legislature in enacting this ~~paragraph~~ subsection is to prevent the payment of duplicative government benefits for the replacement of lost earnings or income, regardless of an individual's ability to work.

(b) In this ~~paragraph~~ subsection, "social security disability insurance payment" means a payment of social security disability insurance benefits under 42 USC ch. 7 subch. II.

Section 108.04 (12) (f) 3. of the statutes is repealed.

Section 108.04 (12) (f) 4. of the statutes is renumbered 108.05 (7m) (e).

Section 108.05 (7m) (title), (c) and (d) of the statutes are created to read:

(title) SOCIAL SECURITY DISABILITY INSURANCE PAYMENTS.

(c) If a monthly social security disability insurance payment is issued to a claimant, the department shall reduce benefits otherwise payable to the claimant for a given week in accordance with par.

(d). This subsection does not apply to a lump sum social security disability insurance payment in the nature of a retroactive payment or back pay.

D25-06

Amend Social Security Disability Insurance Disqualification

(d) The department shall allocate a monthly social security disability insurance payment by allocating to each week the fraction of the payment attributable to that week.

Section 108.05 (9) of the statutes is amended to read:

(9) ROUNDING OF BENEFIT AMOUNTS. Notwithstanding sub. (1), benefits payable for a week of unemployment as a result of applying sub. (1m), (3) ~~or (7)~~, or (7m) or s. 108.04 (11) or (12), 108.06 (1), 108.13 (4) or (5) or 108.135 shall be rounded down to the next lowest dollar.

Section 108.05 (10) (intro.) of the statutes is amended to read:

(10) DEDUCTIONS FROM BENEFIT PAYMENTS. (intro.) After calculating the benefit payment due to be paid for a week under subs. (1) to ~~(7)~~ (7m), the department shall make deductions from that payment to the extent that the payment is sufficient to make the following payments in the following order:

3. Effects of Proposed Change

- a. **Policy:** Under this proposed change, recipients of SSDI may receive UI benefits, but the benefits would be reduced due to the receipt of SSDI benefits.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would take effect on the first Sunday of the 7th month beginning after publication.

D25-06
Amend Social Security Disability Insurance Disqualification
FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Under current law, for each week in any month that a claimant is issued a benefit under the federal Social Security Disability Insurance program (SSDI payment), that claimant is ineligible for UI benefits. The proposal eliminates that prohibition and instead requires DWD to reduce a claimant's UI benefit payments by the amount of SSDI payments. This proposal requires DWD to allocate a monthly SSDI payment by allocating to each week the fraction of the payment attributable to that week.

UI Trust Fund Impact:

This proposal is expected to have a small negative impact on the UI Trust Fund, but the actual magnitude is indeterminate.

IT and Administrative Impact:

This proposal would have an estimated one-time IT impact of \$110,400 and a one-time administrative impact of \$33,120. There are no expected ongoing administrative costs to the UI program above the normal administration of benefits. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

In 2024, the average SSDI payment in Wisconsin was \$1,500 per month. The average weekly SSDI payment for UI purposes is calculated at \$346.20 per week. This weekly amount will in many cases fully reduce the UI benefit a SSDI recipient can receive.

There are strict federal limits on income a SSDI claimant can earn from employment (labeled Substantial Gainful Activity) while maintaining benefits. For disabled SSDI recipients, the maximum amount is \$1,620 per month and for blind SSDI recipients, it is \$2,700 per month.

If a disabled SSDI recipient earns the maximum amount of wages allowed by federal law each month, they would qualify for a \$259 weekly benefit rate. That benefit rate would likely lead to no UI weekly benefits payable, given an average \$1,500 monthly SSDI payment and a weekly reduction of \$346.20 per week.

If a blind SSDI recipient earns the maximum allowed each month, they would qualify for a \$370 weekly benefit rate under the current maximum. If the SSDI recipient receives the average federal benefit of \$1,500, then they may qualify for a \$23 weekly UI benefit amount.

SSDI offers a trial work period for SSDI recipients who wish to return to the workforce. This allows recipients to avoid any limits on earnings but will result in the person no longer receiving SSDI benefits after a period of time.

In summary, most SSDI claimants will not be able to receive UI benefits. While some may be able to receive UI benefits, it is expected that the weekly UI payment would be small. Given that many claimants would not qualify for any UI payment on a weekly basis and that those who do qualify

D25-06

Amend Social Security Disability Insurance Disqualification

would receive small payments, this proposal is expected to cause a small reduction in the UI Trust Fund of indeterminate size.

IT and Administrative Impact Methodology:

DWD estimates a cost of \$110,400 to update information in the portal application and implement the payment process and calculations in the UI benefit mainframe system if implemented before modernization, plus a one-time administrative cost of \$33,120.

D25-07
Repeal UI Drug Testing

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

AMENDED ANALYSIS OF PROPOSED UI LAW CHANGE
Repeal UI Drug Testing

1. Description of Proposed Change

The 2015 Budget, 2015 Wis. Act 55,¹ created Wis. Stat. §§ 108.04(8)(b) and 108.133, requiring the Department, by administrative rule, to create a voluntary program for employers to report the results of a failed or refused pre-employment drug test to DWD, and a program for DWD to test certain UI applicants for unlawful use of controlled substances if their only suitable work is in an occupation that regularly conduct drug testing, as defined by the U.S. Department of Labor.²

Under the pre-employment drug testing program, if a reported individual is receiving UI benefits, the individual is presumed to have failed, without good cause, to accept suitable work and is ineligible for benefits.³ If the drug test was failed, the individual may maintain eligibility for UI benefits if the individual enrolls in and complies with a substance abuse treatment program, completes a job skills assessment, and otherwise meets all program requirements.

Similarly, under the occupational drug testing program, an individual who is deemed ineligible for benefits could maintain eligibility by participating in a job skills assessment and substance abuse treatment program.

Under this law, DWD would pay the reasonable cost of drug treatment, however, the Legislature appropriated only \$250,000 annually for administration of the program, testing, and

¹ The provisions in the Budget Bill for pre-employment and occupational drug testing were not presented to the UIAC for approval and were not included in the agreed bill.

²See [20 CFR § 620.3](#).

³ However, the provisions of Wis. Stat. § 108.04(9) still apply.

D25-07
Repeal UI Drug Testing

treatment.

No claimants have been determined to be ineligible for UI benefits under the pre-employment drug testing statutes and rules and denied benefits because of the employers' reports of a failed drug test as a condition of an offer of employment. Because no claimants have been determined to be ineligible for UI benefits under the pre-employment drug testing statutes and rules, no claimants have maintained benefit eligibility by enrolling in and complying with a substance abuse treatment program and completing a job skills assessment.

The Legislature appropriates \$250,000 of GPR funding annually (\$500,000 per biennium) to DWD to fund and administer UI drug testing and treatment programs for both pre-employment and occupational drug testing programs. No GPR funds have been expended for substance abuse treatment programs as a result of pre-employment drug testing reports filed by employers. Unused appropriated GPR funds are transferred to the Program Integrity Fund at the end of the biennium.⁴

The Governor's 21-23 Executive Budget Bill proposed to repeal the UI pre-employment and UI occupational drug testing statutes and to provide that the GPR be used for administration of the UI program.

Similarly, the 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, would repeal the pre-employment and occupational drug testing statutes. Like the 2025 Budget Bill, this proposal would repeal the pre-employment and occupational drug testing statutes. Employees who are terminated for drug use may be found ineligible for benefits under the drug testing misconduct statute, section 108.04(5)(a), general misconduct, or substantial fault.

⁴ 2017 Wis. Act 157, effective April 1, 2018.

D25-07
Repeal UI Drug Testing

2. Proposed Statutory Changes⁵

Section 108.04(8)(b) of the statutes is repealed.

Section 108.133 of the statutes is repealed.

Wis. Admin. Code Chapter DWD 131, “Pre-Employment Drug Testing, Substance Abuse Treatment Program and Job Skills Assessment,” is repealed.

3. Effects of Proposed Change

Fiscal: The proposed change will save GPR funding of \$500,000 per biennium. The proposal would not affect benefit payments or UI tax revenue. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would first apply to initial claims filed on or after the effective date.

⁵ Additional cross-references may also need to be amended.

D25-07
Repeal UI Drug Testing

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Current state law requires DWD to establish a program to test certain claimants who apply for UI benefits for the presence of controlled substances in a manner that is consistent with federal law. A claimant who tests positive for a controlled substance for which the claimant does not have a prescription is ineligible for UI benefits until certain requalification criteria are satisfied or unless he or she enrolls in a substance abuse treatment program and undergoes a job skills assessment, and a claimant who declines to submit to a test is simply ineligible for benefits until he or she requalifies. The bill eliminates the requirement to establish the drug testing program.

Also under current law, an employer may voluntarily submit to DWD the results of a pre-employment test for the presence of controlled substances that was conducted on an individual as a condition of an offer of employment or notify DWD that an individual declined to submit to the test. If DWD then verifies that submission, the employee may be ineligible for UI benefits until he or she requalifies. However, a claimant who tested positive may maintain eligibility by enrolling in a substance abuse treatment program and undergoing a job skills assessment. The proposal eliminates the pre-employment drug testing provisions.

UI Trust Fund Impact:

There is not expected to be any impact to the UI Trust Fund.

IT and Administrative Impact:

There is not expected to be any measurable IT or administrative impact.

UI Trust Fund Methodology:

The occupational drug testing and treatment program has not been established so its elimination would not impact UI benefit payments or tax contributions.

The pre-employment drug testing law has not resulted in any determinations denying benefits since 2016, so the elimination of pre-employment drug testing is not expected to impact UI benefit payments or tax contributions.

IT and Administrative Impact Methodology:

There are not expected to be any changes made outside normal business operations.

D25-08
Misconduct

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Misconduct

1. Description of Proposed Change

Current law provides that an employee’s termination for attendance violations may disqualify them from receiving unemployment insurance benefits if misconduct or substantial fault are found. Attendance cases are reviewed under a three-step approach. First, the employee’s conduct is analyzed under section 108.04(5)(e), which provides that the discharge is for misconduct if the following criteria are met:

Absenteeism by an employee on more than 2 occasions within the 120-day period before the date of the employee’s termination, unless otherwise specified by his or her employer in an employment manual of which the employee has acknowledged receipt with his or her signature, or excessive tardiness by an employee in violation of a policy of the employer that has been communicated to the employee, if the employee does not provide to his or her employer both notice and one or more valid reasons for the absenteeism or tardiness.

The Wisconsin Supreme Court, in the *Beres* case, held that section 108.04(5)(e) “allows an employer to adopt its own absenteeism policy that differs from the policy set forth in § 108.04(5)(e), and that termination for the violation of the employer’s absenteeism policy will result in disqualification from receiving unemployment compensation benefits even if the employer’s policy is more restrictive than the absenteeism policy set forth in the statute.”¹

A recent published Wisconsin Court of Appeals decision, *Bevco Precision Mfg. Co. v. Wisconsin Lab. & Indus. Rev. Comm’n*, 2024 WI App 54, interpreted the *Beres* decision to mean “that violation of an employer’s attendance policy of which an employee is aware (as evidenced

¹ *Wisconsin Dep’t of Workforce Dev. v. Wisconsin Lab. & Indus. Rev. Comm’n*, 2018 WI 77, ¶ 5, 382 Wis. 2d 611, 616, 914 N.W.2d 625, 628.

D25-08
Misconduct

by a signed acknowledgement of receipt) constitutes 'misconduct' for the purpose of disqualification from unemployment benefits, full stop.”² This new decision means that the notice and reasons for absenteeism are not to be analyzed under the common law. Under *Bevco*, misconduct may now be found when an employer has a “no fault” attendance policy that results in termination regardless of the reasons for the absences and regardless of whether the employee gives notice of the absences.

If the employee’s attendance violations do not fall within the parameters of section 108.04(5)(e), then the employee’s conduct is analyzed under “general” misconduct, the standard in the current version of section 108.04(5)(intro). This definition of misconduct from the Supreme Court’s decision in the *Boynton Cab* case, limits “misconduct” to "conduct evincing such wilful or wanton disregard of an employer’s interests . . .".³

The Federal Unemployment Tax Act permits states to totally reduce (deny) unemployment benefits to a worker only for “discharge for misconduct connected with his work, fraud in connection with a claim for compensation, or receipt of disqualifying income.”⁴ The US Department of Labor interprets federal law to mean that states may only find misconduct where the worker’s conduct is “an intentional or controllable act or failure to take action, which shows a deliberate disregard of the employer’s interests.”⁵ “Section 3304(a)(10) protects claimants’ right to compensation by preventing states from enacting overly-severe denial provisions except

² *Bevco Precision Mfg. Co. v. Wisconsin Lab. & Indus. Rev. Comm’n*, 2024 WI App 54, ¶ 18, 413 Wis. 2d 668, 680, 12 N.W.3d 552, 558.

³ *Boynton Cab Co. v. Neubeck*, 237 Wis. 249, 296 N.W. 636, 640 (1941).

⁴ 26 USC § 3304(a)(10).

⁵ *Benefit Denials*, UNITED STATES DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, <https://oui.doleta.gov/unemploy/content/denialinformation.asp>.

D25-08
Misconduct

for serious offenses.”⁶ (See also the US Department of Labor’s Employment and Training Handbook).⁷

This proposal, which adopts the same proposal in the 2025 Budget Bill, reinstates the general misconduct standard in conformity with federal standards. It provides that when determining misconduct for attendance violations or excessive tardiness, if the employee's notice and reason for an attendance violation are valid and if their conduct does not violate the current general misconduct standard, then misconduct is not found.

Additionally, the 2025 Budget Bill also proposes to legalize marijuana possession. Section 1717 of the Budget Bill provides that misconduct and substantial fault do “not include the employee’s use of marijuana off the employer’s premises during nonworking hours or a violation of the employer’s policy concerning such use, unless termination of the employee because of that use is permitted under s. 111.35.” Under current law, an employment termination may also be found to be misconduct if it is the result of a “violation by an employee of an employer’s reasonable written policy concerning the use of alcohol beverages, or use of a controlled substance or a controlled substance analog, if the employee had knowledge of the” policy and admitted to using the alcohol or drugs or tested positive for the use of alcohol or drugs. (Wis. Stat. § 108.04(5)(a)). If the use is lawful and under nonworking hours, this proposal provides that it is not misconduct or substantial fault, except as provided under s. 111.35.

⁶ Total Reduction/Cancellation of Wage Credits, UNITED STATES DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, Benefit Standards of Conformity Requirements for State UC Laws, available at https://oui.doleta.gov/unemploy/pdf/uilaws_wagecredits.pdf.

⁷ The Legal Authority of Unemployment Insurance Program Letters and Similar Directives, UNITED STATES DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, Unemployment Insurance Program Letter No. 01-96 (Oct. 5, 1995) available at <https://wdr.doleta.gov/directives/attach/UIPL1-96.cfm> (explaining the legal effect of US-DOL directives, including that such directives “state or clarify the Department’s position, particularly with respect to the Department’s interpretation of the minimum Federal requirements for conformity or compliance, thereby assuring greater uniformity of application of such requirements by the States.”).

D25-08
Misconduct

2. Proposed Statutory Changes

Section 108.04 (5) (intro.) of the statutes is renumbered 108.04 (5) (cm) and amended to

read: (cm) An employee whose work is terminated by an employing unit for misconduct by the employee connected with the employee's work is ineligible to receive benefits until 7 weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages after the week in which the discharge occurs equal to at least 14 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance law of any state or the federal government. For purposes of requalification, the employee's weekly benefit rate shall be the rate that would have been paid had the discharge not occurred. The wages paid to an employee by an employer which terminates employment of the employee for misconduct connected with the employee's employment shall be excluded from the employee's base period wages under s. 108.06 (1) for purposes of benefit entitlement. This ~~subsection~~ paragraph does not preclude an employee who has employment with an employer other than the employer which terminated the employee for misconduct from establishing a benefit year using the base period wages excluded under this ~~subsection~~ paragraph if the employee qualifies to establish a benefit year under s. 108.06 (2) (a). The department shall charge to the fund's balancing account any benefits otherwise chargeable to the account of an employer that is subject to the contribution requirements under ss. 108.17 and 108.18 from which base period wages are excluded under this ~~subsection~~ paragraph.

(am) For purposes of this subsection, "misconduct" means one or more actions or conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which an employer has a right to expect of his or her employees, or in carelessness or negligence of such degree or recurrence as to manifest

D25-08
Misconduct

culpability, wrongful intent, or evil design of equal severity to such disregard, or to show an intentional and substantial disregard of an employer's interests, or of an employee's duties and obligations to his or her employer.

(bm) In addition to the conduct described in par. (am), "misconduct" includes all of the following:

Section 108.04 (5) (a) to (g) of the statutes are renumbered 108.04 (5) (bm) 1. to 7., and 108.04 (5) (bm) 5. and 7., as renumbered, are amended to read:

108.04 (5) (bm) 5. Absenteeism by an employee on more than 2 occasions within the 120-day period before the date of the employee's termination, unless otherwise specified by his or her employer in an employment manual of which the employee has acknowledged receipt with his or her signature, ~~or excessive tardiness by an employee in violation of a policy of the employer that has been communicated to the employee,~~ if the employee does not provide to his or her employer both notice and one or more valid reasons for the absenteeism ~~or tardiness.~~ For purposes of this subdivision, an employee's notice and reason for an occasion of absenteeism or tardiness shall be analyzed under the standard specified in par. (am).

7. Unless directed by the employer, a willful and deliberate violation of a written and uniformly applied standard or regulation of the federal government or a state or Indian tribal government by an employee of an employer that is licensed or certified by a governmental agency, which standard or regulation has been communicated by the employer to the employee and which violation would cause the employer to be sanctioned or to have its license or certification suspended or revoked by the agency.

Section 108.04 (5m) of the statutes is created to read:

DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5), "misconduct," for purposes of sub. (5), does not include the employee's use of marijuana off the employer's

D25-08
Misconduct

premises during nonworking hours or a violation of the employer's policy concerning such use, unless termination of the employee because of that use is permitted under s. 111.35.

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

3. Effects of Proposed Change

- a. Policy: The proposed change will clarify the circumstances where attendance violations and marijuana use result in a finding of misconduct or substantial fault.
- b. Administrative: This proposal will require training of Department staff.
- c. Fiscal: A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal will apply to determinations issued on or after the effective date of the agreed-upon bill.

D25-08
Misconduct

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Under current law, if a claimant for UI benefits is terminated by their employer for misconduct connected with their work, the claimant is ineligible to receive UI benefits until the claimant satisfies certain requalification criteria. And the claimant's wages paid by the employer that terminates the claimant for misconduct are excluded for purposes of calculating benefit entitlement. Current law defines "misconduct" using a general, common law standard derived from *Boynton Cab Co. v. Neubeck*, 237 Wis. 249 (1941), and enumerates several specific types of conduct that also constitute misconduct. Under one of these specific provisions, misconduct includes: 1) absenteeism on more than two occasions within the 120-day period before the date of the claimant's termination, unless otherwise specified by his or her employer in an employment manual of which the claimant has acknowledged receipt with his or her signature, or 2) excessive tardiness by a claimant in violation of a policy of the employer that has been communicated to the claimant. In *Department of Workforce Development v. Labor and Industry Review Commission (Beres)*, 2018 WI 77, the Wisconsin Supreme Court held that an employer could, under the language described above, institute an attendance policy more restrictive than two occasions within the 120-day period.

Current law also provides that an absence or tardiness occasion counts as misconduct only if the claimant did not provide to his or her employer both notice and one or more valid reasons for the absenteeism or tardiness. In *Bevco Precision Manufacturing v. Labor and Industry Review Commission*, 2024 WI App. 54, the Wisconsin Court of Appeals held that under *Beres*, this qualifying language did not apply if an employer had adopted its own standard on absenteeism and tardiness, as described above.

The proposal does all of the following:

1. Eliminates the language referencing "excessive tardiness."
2. Reverses the holding in *Bevco* by providing that a claimant's notice and reason for an occasion of absenteeism or tardiness are to be analyzed under the common law misconduct standard. Under the proposal, therefore, an employer may not establish its own policy for determining the reasonableness of absenteeism or tardiness. The proposal does not, however, affect the general ability of an employer to institute a standard for absenteeism and tardiness more restrictive than two occasions within the 120-day period before termination.
3. Clarifies, in another provision defining misconduct, that "tribal government" has the meaning given under state and federal law for what is considered an Indian tribe.

UI Trust Fund Impact:

This proposal is expected to reduce the UI Trust Fund by \$2.2 million annually.

IT and Administrative Impact:

There is not expected to be any measurable IT or administrative impact.

D25-08
Misconduct

UI Trust Fund Methodology:

Part 1 would remove excessive tardiness from being specifically investigated under the existing misconduct attendance provisions, but discharges due to tardiness would still be investigated under the standard misconduct provisions. It is likely that all or nearly all current misconduct findings for excessive tardiness would be found to be misconduct under the standard misconduct provisions.

Part 2 involves decisions UI has been making under *Bevco* since October 2, 2024. From that date through the end of 2024, there were 237 decisions denying benefits under the provisions specified in *Bevco*. Projecting out over the entire year, it is estimated that 846 decisions denying benefits would be issued each year. Using the 2024 average weekly benefit amount of \$347 and the average duration of 12.2 weeks in 2024, the expected amount of additional benefit payments is \$3.6 million annually. Considering an estimated \$230,000 of reimbursable benefit payments and \$1.1 million in additional tax revenue results in a reduction in the UI Trust Fund by \$2.2 million annually.

Part 3 is a technical correction that is not expected to impact benefits paid or UI tax contributions.

IT and Administrative Impact Methodology:

This proposal would include only minor changes to documents to update cited statutes. This work would be included under the normal review of documentation and there would be no additional costs.

D25-09
Repeal Substantial Fault

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Repeal Substantial Fault

1. Description of Proposed Change

Under current law, a discharged employee is ineligible for unemployment insurance benefits if the discharge is for misconduct or substantial fault by the employee connected with their employment. In either case, the employee is ineligible for unemployment benefits until seven weeks have elapsed since the end of the week in which the discharge occurs, and the employee earns wages after the week in which the discharge occurs equal to at least 14 times the employee's weekly benefit rate.

For misconduct discharges (but not for substantial fault), the wages paid by an employer which terminates the employee for misconduct are excluded from the employee's base period wages for purposes of benefit entitlement. This is known as cancellation of wage credits.

The 2013 Budget, 2013 Wis. Act 20, repealed a disqualification for attendance failures in section 108.04(5g) and replaced it with the disqualification for substantial fault:

(a) An employee whose work is terminated by an employing unit for substantial fault by the employee connected with the employee's work is ineligible to receive benefits until 7 weeks have elapsed since the end of the week in which the termination occurs and the employee earns wages after the week in which the termination occurs equal to at least 14 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance law of any state or the federal government. For purposes of requalification, the employee's benefit rate shall be the rate that would have been paid had the discharge not occurred. For purposes of this paragraph, "substantial fault" includes those acts or omissions of an employee over which the employee exercised reasonable control and which violate reasonable requirements of the employee's employer but does not include any of the following:

1. One or more minor infractions of rules unless an infraction is repeated after the employer warns the employee about the infraction.

D25-09
Repeal Substantial Fault

2. One or more inadvertent errors made by the employee.
3. Any failure of the employee to perform work because of insufficient skill, ability, or equipment.

Act 20 also created a two-tiered approach for deciding certain absentee and tardiness issues. Under current law, absenteeism and tardiness cases are analyzed first under s. 108.04(5)(e), then under general misconduct (s. 108.04(5)(intro)). If disqualification does not result under s. 108.04(5)(e) or general misconduct, the next step is to analyze the reasons for discharge under substantial fault.

The 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, would repeal substantial fault.

Like the 2025 Budget Bill, this proposal would repeal substantial fault. The substantial fault statute has been the subject of litigation to the courts, including the Supreme Court. Repealing substantial fault would result in more predictability for claimants and employers. The Department is unaware of any other state having an unemployment insurance benefit disqualification for substantial fault, but North Carolina previously had a substantial fault disqualification.

2. Proposed Statutory Changes¹

Section 108.04(5g) of the statutes is repealed.

3. Effects of Proposed Change

- a. Policy. The proposed change would result in payment of unemployment insurance benefits to claimants who would currently be denied on substantial fault grounds. The proposed change would result in more predictability for claimants and employers. The proposed change could result in less litigation on discharge issues.
- b. Administrative. This proposal will require training of Department staff.

¹ Cross-references to the substantial fault statute would also be repealed.

D25-09
Repeal Substantial Fault

c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would apply to determinations issued on the first Sunday after the effective date of the repealed statute.

D25-09
Repeal Substantial Fault

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Under current law, a claimant for UI benefits whose work is terminated by his or her employer for substantial fault by the claimant connected with the claimant's work is ineligible to receive UI benefits until the claimant satisfies certain requalification criteria. With certain exceptions, current law defines "substantial fault" to include those acts or omissions of a claimant over which the claimant exercised reasonable control and that violate reasonable requirements of the claimant's employer. The proposal eliminates this provision on substantial fault.

UI Trust Fund Impact:

This proposal is expected to reduce the UI Trust Fund by \$3.8 million annually.

IT and Administrative Impact:

This proposal is expected to have a one-time IT cost of \$19,200. This proposal is expected to have a one-time administrative cost of \$5,760. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

Substantial fault is the last step when considering a denial when someone is discharged:

- (1) check for statutory misconduct (under a-g); if no denial then
- (2) check for general misconduct; if no denial then
- (3) check for substantial fault.

Under the proposed change, if the case doesn't meet the first two denial reasons, the determination would be an allow. So, any determination that is currently substantial fault would be an allow under this proposed change.

There was an annual average of 1,428 substantial fault decisions that denied benefits for the years 2022 to 2024. With the elimination of substantial fault decisions, these would now be situations where benefits were allowed. Using the 2024 average weekly benefit amount of \$347 per week and the average duration of 12.2 weeks in 2024, the expected additional benefit payments is \$6.0 million annually. Accounting for an estimated \$400,000 of reimbursable benefit payments and \$1.8 million in additional tax revenue leads to a reduction in the UI Trust Fund by \$3.8 million annually.

IT and Administrative Impact Methodology:

DWD estimates a cost of \$19,200 to make changes to forms and update information in the portal application, plus a one-time administrative cost of \$5,760 to support implementation.

D25-10
Suitable Work

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Suitable Work

1. Description of Proposed Change

The definition of “suitable work” in the Unemployment Insurance law provides a standard for determining whether an unemployment benefit claimant has good cause for accepting work when offered. The Unemployment Insurance administrative rules currently define “suitable work” as “work that is reasonable considering the claimant’s training, experience, and duration of unemployment as well as the availability of jobs in the labor market.”¹

Under the 2015 Unemployment Insurance Advisory Council agreed bill, 2015 Wis. Act 334, suitable work changes, a two-tiered approach is used to determine whether work refused is suitable based on when the job is refused. For claimants who refuse a job within the first six weeks of unemployment, the Department will compare the skill level and rate of pay to the claimant’s most recent jobs and determine whether the hourly wage is at least 75 percent of what the claimant earned in their highest paying most recent job.² Beginning in the seventh week after the claimant became unemployed, suitable work means any work that the claimant is capable of performing, as determined by the Department.

Also, under current law, if a claimant has accepted work that was not suitable under the UI law, which the claimant could have refused with good cause, and the claimant terminates the

¹ Wis. Admin. Code DWD § 100.02(61).

² Wis. Stat. § 108.04(8)(d).

D25-10
Suitable Work

work within 30 calendar days, a claimant is eligible to receive UI benefits (generally, an individual is not eligible for UI benefits if they quit a job).

The Governor's 2021-23 Executive Budget included a proposal to change UI suitable work law to allow a claimant four additional weeks to find work that matches their skill level and replaces the majority of their lost wages. The Governor's 2021-23 Executive Budget also proposed to extend the period a UI claimant has to try out a job from 30 days to 10 weeks and, if the individual determined the job was not suitable, retain eligibility for UI benefits.

A proposal extending the time available to find and try out suitable work helps an individual avoid a significant deterioration in job quality or wages. An individual with unique or specialized skills may need a longer period to find work in their field due to, for instance, a scarcity of jobs in their field or because work may become more available during certain times of the year. Extending the period to look for suitable work, gives an individual a better chance to stay in their field and maintain their skills. Similarly, upon taking a position, it may take an individual more than 30 days to determine if the accepted work utilizes their skills, or if a monthly or annual pay rate is within 75 percent of their prior pay.

The 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, proposes again the following changes related to suitable work: (1) extends the period, from 6 weeks to 10 weeks, that claimants must find work that is comparable to the work lost; and (2) allows claimants up to 10 weeks (a change from 30 days) to determine if a job taken is suitable.

This proposal adopts the proposed changes in the 2025 Budget Bill related to suitable work.

D25-10
Suitable Work

2. Proposed Statutory Changes³

Section 108.04 (7) (e) of the statutes is amended to read:

Paragraph (a) does not apply if the department determines that the employee accepted work that the employee accepted work that the employee could have failed to accept under sub. (8) and terminated the work on the same grounds and within the first ~~30 calendar days~~ 10 weeks after starting the work, or that the employee accepted work that the employee could have refused under sub. (9) and terminated the work within the first ~~30 calendar days~~ 10 weeks after starting the work. For purposes of this paragraph, an employee has the same grounds for voluntarily terminating work if the employee could have failed to accept the work under sub. (8) (d) to (em) when it was offered, regardless of the reason articulated by the employee for the termination.

Section 108.04 (8) (d) (intro) of the statutes is amended to read:

With respect to the first ~~6~~ 10 weeks after the employee became unemployed, “suitable work,” for purposes of par. (a), means work to which all of the following apply:

Section 108.04 (8) (dm) of the statutes is amended to read:

With respect to the ~~7th~~ 11th week after the employee became unemployed and any week thereafter, “suitable work,” for purposes of par. (a), means any work that the employee is capable of performing, regardless of whether the employee has any relevant experience or training, that pays wages that are above the lowest quartile of wages for similar work in the labor market area in which the work is located, as determined by the department.

³ Subject to revision to ensure cross-references are corrected.

D25-10
Suitable Work

3. Effects of Proposed Change

- a. Policy. The proposed change will provide claimants with more time to refuse work and continue to receive unemployment benefits.
- b. Administrative. This proposal will require training of Department staff.
- c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would first apply to determinations issued on or after the effective date of the proposal.

D25-10
Suitable Work

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Acceptance of Suitable Work

Summary of Proposal:

Under current law, if a claimant for UI benefits fails, without good cause, to accept suitable work when offered, the claimant is ineligible to receive benefits until he or she earns wages after the week in which the failure occurs equal to at least six times the claimant's weekly UI benefit rate in covered employment. Current law specifies what is considered "suitable work" for purposes of these provisions, with different standards applying depending on the amount of time that has elapsed since the claimant became unemployed. If the job refusal occurs within the first six weeks (known as the canvassing period), the department compares the skill and rate of pay to the claimant's most recent jobs and determines if the hourly wage is at least 75% of what the claimant earned in their highest paying most recent job. After six weeks have elapsed since the claimant became unemployed, the claimant is required to accept any work they are capable of performing, even if the pay is significantly lower than their most recent job.

This proposal modifies these provisions described above extending the canvassing period so that the claimant is not required to accept less favorable work until more than 10 weeks have elapsed since the claimant became unemployed.

UI Trust Fund Impact:

This proposal is expected to reduce the UI Trust Fund by \$102,000 annually.

IT and Administrative Impact:

This proposal is expected to have a one-time IT cost of \$19,200. This proposal is expected to have a one-time administrative cost of \$5,760. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

Reviewing previous data from 2019, 40 cases that had UI benefits denied due to refusal of suitable work were investigated to see if making a change from six weeks to 10 weeks would have impacted the decision. In one case, the claimant would not have been found ineligible because they failed to accept work within ten weeks of being unemployed. An additional six decisions may have been reversed under this proposed law change. This implies up to 17.5% cases denied for suitable work may be allowed under this proposal. Over the years 2022 to 2024, there were on average 219 denials for refusing suitable work. Using the 2024 average weekly benefit amount of \$347 and the average duration of 12.2 weeks in 2024, the expected amount of additional benefits is up to \$162,000 annually. Accounting for an estimated \$10,000 of reimbursable benefits and \$50,000 in additional tax revenue leads to a reduction in the UI Trust Fund by \$102,000 annually.

IT and Administrative Impact Methodology:

DWD estimates a one-time cost of \$19,200 to update information in the portal application as well as a one-time administrative cost of \$5,760 to support implementation.

D25-10
Suitable Work

Quit Exception for Unsuitable Work

Summary of Proposal:

Under current law, unless an exception applies, a person who quits their job is generally ineligible to receive UI benefits until they requalify through subsequent covered employment. Under one such exception, if a claimant 1) accepts work that they could have refused under UI law, and 2) terminated the new work within 30 days after starting the work, the claimant remains eligible for UI benefits. Under the proposal, this exemption applies if the claimant terminated that work within 10 weeks after starting the work.

UI Trust Fund Impact:

This proposal is expected to reduce the UI Trust Fund by \$1.495 million annually.

IT and Administrative Impact:

This proposal is expected to have a one-time IT cost of \$19,200. This proposal is expected to have a one-time administrative cost of \$5,760. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

Using past data analysis under prior law (when Wisconsin allowed quits for up to 10 weeks), it is estimated that approximately 31% of allowed decisions were past the 30-day threshold. There were, on average, 1,842 decisions annually for the period 2022 to 2024. Using the 31% expected increase, there would be an additional 571 allow decisions annually. This would lead to an increase in UI benefits of approximately \$2.4 million. There would be an expected annual increase of \$155,000 in reimbursable benefits and \$750,000 in additional tax revenue. Overall, this proposal is expected to lead to a reduction in the UI Trust Fund by \$1.495 million annually.

IT and Administrative Impact Methodology:

DWD estimates the cost to update information in the portal application is \$19,200, plus a one-time administrative cost of \$5,760.

D25-11
Quit Exception for Relocating Spouse

Date: April 17, 2025
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Quit Exception for Relocating Spouse

1. Description of Proposed Change

Employees who quit a job are generally ineligible for unemployment insurance benefits unless an exception applies.

As a condition of Wisconsin receiving federal grant money (American Recovery and Reinvestment Act of 2009 Funds), 2009 Wis. Act 11 created a quit exception. The exception permitted claimants to be eligible for unemployment insurance benefits (assuming they were otherwise qualified) if they quit their job to move with a spouse who was required to relocate for employment, and it would have been impractical for the claimant to commute from the new location.

The 2013 Budget Act, 2013 Wis. Act 20, amended and repealed several quit exceptions, including amending the “quit to relocate” exception in Wis. Stat. § 108.04(7)(t). The amended quit exception, effective January 2014, was narrowed to cover only a claimant whose spouse is on active duty with the U.S. Armed Forces, is required to relocate by the U.S. Armed Forces and it is impractical for the claimant to commute to work.

The 2025 Budget Bill, 2025 AB 50 / 2019 SB 45, effectively repeals the changes to this quit exception made by 2013 Wis. Act 20 and provides that the quit exception covers all spouses who move with a relocating spouse, not just those serving in the U.S. Armed Forces.

This proposal adopts the Budget Bill changes related to the quit exception.

D25-11
Quit Exception for Relocating Spouse

2. Proposed Statutory Changes¹

Section 108.04 (7) (t) 1. of the statutes is repealed.

~~1. The employee's spouse is a member of the U.S. armed forces on active duty.~~

Section 108.04 (7) (t) 2. of the statutes is amended to read:

The employee's spouse was required by ~~the U.S. armed forces~~ his or her employing unit to relocate to a place to which it is impractical for the employee to commute.

3. Effects of Proposed Change

- a. Policy. The proposed change may encourage workers to relocate to take better jobs. This proposal may ensure that spouses of workers who relocate to take better jobs can receive unemployment insurance benefits after relocating if it is impractical for the spouse to commute, assuming that the spouse is otherwise eligible for unemployment insurance benefits.
- b. Administrative. This proposal will require training of Department staff.
- c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would be effective with the other provisions of the agreed bill.

¹ Cross-references may be amended.

D25-11

Quit Exception for Relocating Spouse

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Under current law, unless an exception applies, if an individual quits their job, the individual is generally ineligible to receive UI benefits until they requalify through subsequent employment.

Under one exception, if the employee's spouse is a member of the U.S. armed forces on active duty and is relocated, and the employee quits their job to relocate with their spouse, the employee remains eligible to collect UI benefits. This proposal expands this exception so that it applies to an employee who quits employment to relocate with a spouse who is required by any employer, not just the U.S. armed forces, to relocate.

UI Trust Fund Impact:

This proposal is expected to reduce the UI Trust Fund by \$390,000 annually.

IT and Administrative Impact:

This proposal is expected to have a one-time IT cost of \$28,800. This proposal is expected to have a one-time administrative cost of \$8,640. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

When this quit exception was in effect in 2011, benefits were allowed in 417 claims under this provision. Comparing the number of initial claims in 2011 to the average of initial claims for 2022 through 2024, it is expected that 147 claims would be allowed under this provision. Using the average weekly benefit payment in 2024 of \$347 and the average duration of 12.2 weeks in 2024, this would result in an expected increase in benefits of \$622,000 annually. Of this amount, \$40,000 would be expected to be reimbursable benefit payments. There would be an increase of \$192,000 in UI tax contributions; with an expected decrease in the UI Trust Fund of \$390,000 annually.

IT and Administrative Impact Methodology:

DWD estimates the cost to update information in the portal application to be \$28,800, plus a one-time administrative cost of \$8,640.

D25-12

Repeal Work Search and Work Registration Waivers from Statute

Date: April 17, 2025

Proposed by: DWD

Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Repeal Work Search and Work Registration Waivers from Statute

1. Description of Proposed Change

Federal law requires claimants to be actively seeking work and to register for work. In Wisconsin, unemployment benefit claimants must conduct at least four work searches each week and register for work, unless a waiver relieves them of these requirements.

Before 2017 Wis. Act 370 (enacted during the 2018 extraordinary session), the unemployment work search waivers were set forth in Wis. Admin. Code DWD § 127.02. The unemployment work registration waivers were in Wis. Admin. Code DWD § 126.03. Act 370 codified in statute the work search and work registration waivers that existed in Administrative Code chapters DWD 126 and 127 (2018). Act 370 also created statutory language to permit the Department to promulgate administrative rules that modify the statutory work search and work registration waivers or create additional work search or work registration waivers “to comply with a requirement under federal law or is specifically allowed under federal law.” During the pandemic, the Department promulgated emergency rules to add waivers during the public health emergency. Those temporary waivers have expired.

The 2025 Budget Bill, 2025 AB 50 / 2025 SB 45, would repeal the work search waiver provisions in statute as created by Act 370, restore the applicable statutes to their pre-Act 370 language, and direct the Department to establish work search waivers by administrative rule, including by emergency rule for temporary waivers. The Budget Bill proposal would permit the Department to promulgate the emergency rule without making a finding of emergency and would permit the emergency rule to be extended up to 60 days without the prior approval of the

D25-12

Repeal Work Search and Work Registration Waivers from Statute

Joint Committee for Review of Administrative Rules and without a limit on the number of extensions. This proposal mirrors the 2025 Budget Bill proposal.

2. Proposed Statutory Changes¹

Section 108.04 (2) (a) (intro.) of the statutes is amended to read:

Except as provided in ~~par. (b) to (bd)~~, sub. (16) (am) and (b), and s. 108.062 (10) and (10m) and as otherwise expressly provided, a claimant is eligible for benefits as to any given week only if all of the following apply:

Section 108.04 (2) (a) 3. of the statutes is repealed and recreated to read:

The claimant conducts a reasonable search for suitable work during that week and provides verification of that search to the department. The search for suitable work must include at least 4 actions per week that constitute a reasonable search as prescribed by rule of the department. In addition, the department may, by rule, require a claimant to take more than 4 reasonable work search actions in any week. The department shall require a uniform number of reasonable work search actions for similar types of claimants. This subdivision does not apply to a claimant if the department determines that the claimant is currently laid off from employment with an employer but there is a reasonable expectation of reemployment of the individual by that employer. In determining whether the claimant has a reasonable expectation of reemployment by an employer, the department shall request the employer to verify the claimant's employment status and shall consider all of the following:

- a. The history of layoffs and reemployments by the employer.
- b. Any information that the employer furnished to the claimant or the department concerning the claimant's anticipated reemployment date.

¹ Subject to revision to ensure cross-references are corrected.

D25-12

Repeal Work Search and Work Registration Waivers from Statute

- c. Whether the claimant has recall rights with the employer under the terms of any applicable collective bargaining agreement.

Section 108.04 (2) (b) of the statutes is repealed and recreated to read:

1. The department may, by rule, establish waivers from the registration for work requirement under par. (a) 2. and the work search requirement under par. (a) 3.

2. a. The department may promulgate rules under subd. 1. as emergency rules, using the procedure under s. 227.24, if the secretary of workforce development determines that the waiver is needed only on a temporary basis or that permanent rules are not warranted. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide evidence that promulgating a rule under this subd. 2. a. as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subd. 2. a. Except as provided under subd. 2. b., a rule promulgated under this subd. 2. a. remains in effect only for 150 days.

b. Notwithstanding s. 227.24 (2), the secretary of workforce development may extend the effective period of an emergency rule promulgated under subd. 2. a. for a period specified by the secretary not to exceed 60 days. Any number of extensions may be granted under this subd. 2. b. Whenever the secretary extends an emergency rule under this subd. 2. b., it shall file a statement of its action with the legislative reference bureau. The statement shall identify the specific emergency rule to which it relates.

Section 108.04 (2) (bb) of the statutes is repealed.

Section 108.04 (2) (bd) of the statutes is repealed.

D25-12

Repeal Work Search and Work Registration Waivers from Statute

Section 108.04 (2) (bm) of the statutes is amended to read:

A claimant is ineligible to receive benefits for any week for which there is a determination that the claimant failed to comply with the registration for work and work search requirements under par. (a) 2. or 3. or failed to provide verification to the department that the claimant complied with those requirements, unless the department has waived those requirements under par. (b), ~~(bb)~~, or ~~(bd)~~ or s. 108.062 (10m). If the department has paid benefits to a claimant for any such week, the department may recover the overpayment under s. 108.22.

3. Effects of Proposed Change

- a. Policy. The proposed change would restore the law on work search and work registration waivers to the status quo before Act 370 and permit waivers to again be modified by rule.
- b. Administrative. This proposal will require training of Department staff.
- c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would be effective with the other provisions of the agreed bill.

D25-12
Repeal Work Search and Work Registration Waivers from Statute

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:

Under current law, a claimant for UI benefits is generally required to register for work and to conduct a work search for each week to remain eligible for benefits. Current law requires DWD to waive these requirements under certain circumstances, for example, if a claimant who is laid off from work reasonably expects to be recalled to work within 12 weeks, will start a new job within four weeks, routinely obtains work through a labor union referral, or is participating in a training or work share program. Under current law, DWD may modify the statutory waivers or establish additional waivers by rule only if doing so is required or specifically allowed by federal law.

This proposal removes the waiver requirements from statute and instead allows DWD to establish waivers for the registration for work and work search requirements by rule. DWD may establish a waiver by emergency rule if the secretary of workforce development determines that the waiver is needed only on a temporary basis or that permanent rules are not warranted. This proposal allows the secretary to extend the emergency rule for up to 60 days at a time. Also, the proposal specifies that the work search requirement does not apply to a claimant who has been laid off but DWD determines that the claimant has a reasonable expectation to be recalled to work by the same employer. If this proposal is enacted, then DWD will apply the waivers in the administrative code, including the 8 plus 4 week recall waiver.

UI Trust Fund Impact:

This proposal is estimated to have no impact on the UI Trust Fund.

IT and Administrative Impact:

This proposal is expected to have a one-time IT cost of \$19,200. This proposal is expected to have a one-time administrative cost of \$5,760. The estimated operations cost of this proposal is absorbable within the current UI administrative budget.

UI Trust Fund Methodology:

This proposal would revert statute to rule and policy matching the current statute, so there would be no impact.

IT and Administrative Impact Methodology:

DWD estimates a one-time cost of \$19,200 to update information on the mainframe system forms and a one-time administrative cost of \$5,760 to support implementation.

NOTE REGARDING FISCAL ANALYSIS

For ease of understanding, each fiscal analysis, with the exception of the change in the weekly earnings cap, is drafted with the assumption each proposal is a standalone change. There is possible interaction among the various proposals, but the interaction is not expected to be significant except in two cases – the end of the waiting period and increasing the maximum weekly benefit rate. When looking at the other estimates, the elimination of the waiting period would increase UI Trust Fund impacts by 5-8% and the increase in the maximum weekly benefit rate would increase UI Trust Fund impacts by approximately 23%.

Unemployment Insurance Advisory Council Tentative Schedule for 2025-2026 Session

January 16, 2025	Scheduled UIAC Meeting Discuss Public Hearing Comments
March 20, 2025	Scheduled UIAC Meeting Discuss Department Law Change Proposals UI Fraud Report
April 17, 2025	Scheduled UIAC Meeting Discuss Department Law Change Proposals Exchange of Labor & Management Law Change Proposals
May 15, 2025	Scheduled UIAC Meeting Discuss Department Law Change Proposals Discuss Labor & Management Proposals
June 19, 2025	Scheduled UIAC Meeting Discuss Department Law Change Proposals Discuss Labor & Management Proposals
July 17, 2025	Scheduled UIAC Meeting Discussion and Agreement on Law Changes for Agreed Upon Bill
August 21, 2025	Scheduled UIAC Meeting Review and approval of draft of Agreed Upon Bill
September 18, 2025	Scheduled UIAC Meeting Final review and approval of LRB draft of Agreed Upon Bill
October 16, 2025	Scheduled UIAC Meeting Agreed Upon Bill Sent to the Legislature for Introduction UIAC Activities Report (due January 2026)
November 20, 2025	Scheduled UIAC Meeting
December 18, 2025	Tentative UIAC Meeting
January 15, 2026	Tentative UIAC Meeting