



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 04/20/2009

(Per: CMH)

Compile Draft – Appendix H ... Part 01 of 03

- | | |
|--|---|
| A ☞ The <u>2009</u> drafting file for LRB-2519 | E ☞ The <u>2009</u> drafting file for LRB-2680 |
| B ☞ The <u>2009</u> drafting file for LRB-2551 | F ☞ The <u>2009</u> drafting file for LRB-2686 |
| C ☞ The <u>2009</u> drafting file for LRB-2566 | G ☞ The <u>2009</u> drafting file for LRB-2687 |
| D ☞ The <u>2009</u> drafting file for LRB-2522 | H ☞ The <u>2009</u> drafting file for LRB-2556 (as an insert) |

2009 LRB-2556 has been copied/added to the drafting file for

2009 LRB-2697

2009 DRAFTING REQUEST

Bill

Received: 04/04/2009

Received By: jkuesel

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Weidner

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Unemployment Insurance

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to: JoAnna.Richard@dwd.state.wi.us
Daniel.LaRocque@dwd.state.wi.us
Tracey.Schwalbe@dwd.state.wi.us
Jane.Pawasarat@wisconsin.gov

Pre Topic:

DOA:.....Weidner, ARRA -

Topic:

Unemployment insurance eligibility; extended benefits

Instructions:

Per attached E mails, 3/30/09 and 4/1/09.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 04/06/2009	nmatzke 04/08/2009		_____			S&L
/P1	jkuesel 04/16/2009		mduchek 04/08/2009	_____	mbarman 04/08/2009		S&L
/P2		nmatzke		_____			S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P3			jfrantze 04/17/2009	_____ _____	cduerst 04/17/2009		S&L
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/3	jkuesel 04/20/2009	jdyer 04/20/2009	mduchek 04/20/2009	_____ _____	mbarman 04/20/2009		

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<END>

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/2	jkuesel 04/20/2009	kfollett 04/20/2009	rschluet 04/20/2009	_____	cduerst 04/20/2009		

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FE Sent For: jkuesel
4/20/09

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4/20

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Handwritten signature and date 4/20/09

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jkuesel 4/17/09
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Page 2

FE Sent For:

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2009 DRAFTING REQUEST

Bill

Received: 04/04/2009

Received By: jkuesel

Wanted: Soon

Identical to LRB:

For: Administration 6-7329

By/Representing: Jenna Weidner

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Unemployment Insurance

Extra Copies: Joanna Richard - DWD - 1
Jane Pawasarat - DOA - 1
Dan LaRocque - DWD - 1
Tracey Schwalbe - DWD - 1

Submit via email: NO

Pre Topic:

No specific pre topic given

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FE Sent For:

Handwritten notes and signatures: jkuesel 4/16, mduchek 4/16, mbarman 4/16, mduchek 4/17, mbarman 4/17, and <END>

2009 DRAFTING REQUEST

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For: Administration

By/Representing: Jenna Weidner

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Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Unemployment Insurance

Extra Copies:

Submit via email: YES

Requester's email: Jenna.Weidner@wisconsin.gov

Carbon copy (CC:) to: Daniel.LaRocque@dwd.state.wi.us
Tracey.Schwalbe@dwd.state.wi.us

Pre Topic:

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By/Representing: Jenna Weidner

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May Contact:

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Subject: Unemployment Insurance

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Tracey Schwalbe - DWD - 1

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1/2/	jkuesel 4/6/09	1/PI 2/7	M	PH/RS again MD			

FE Sent For:

<END>

Kuesel, Jeffery

From: Hanaman, Cathlene
Sent: Monday, March 30, 2009 2:25 PM
To: Kuesel, Jeffery; Champagne, Rick
Subject: FW: UI Modernization language for ARRA

Jeff--I think this is you, but I cc'ed Rick in case he has a part.

From: Weidner, Jenna M - DOA [mailto:Jenna.Weidner@wisconsin.gov]
Sent: Monday, March 30, 2009 2:15 PM
To: Hanaman, Cathlene
Cc: Pawasarat, Jane - DOA
Subject: UI Modernization language for ARRA

Hi Cathlene,
I left you a voicemail message about this. In the American Recovery and Reinvestment Act (ARRA) there is incentive funding for Unemployment Insurance (UI) modernization. We need some legislative changes to receive the funding. I'm hoping you can direct these UI modernization drafting instructions to the appropriate drafter. The legislation drafted should:

- 1) Prohibit unemployment compensation disqualification for separation from employment if it is for compelling family reasons, such as domestic violence, illness of an immediate family member or relocation based on a change in spouse's employment.
- 2) Provide a period of no less than 26 weeks of extended benefits, equivalent to the previously calculated unemployment compensation benefit, for workers who have exhausted regular and extended unemployment compensation but who are enrolled in a state-approved training program or in a WIA job-training program. The training program must prepare the worker for a "high-demand" occupation.

+> no denial for seeking part-time work.
Please let me know if you have any questions.

Thanks so much,
Jenna

Jenna Weidner
Executive Policy and Budget Analyst
Wisconsin State Budget Office, DOA-DEBF
101 East Wilson Street
Madison, WI 53702
(608)266-7329
jenna.weidner@wisconsin.gov

Kuesel, Jeffery

From: Weidner, Jenna M - DOA [Jenna.Weidner@wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:38 PM
To: Kuesel, Jeffery
Cc: Pawasarat, Jane - DOA
Subject: FW: UI drafting language
Attachments: Draft language UI Mod-HEB-Approp 040109.doc

Hi Jeff,

The attached includes the "high extended benefits" change that I mentioned would be coming over for drafting. Please let me know if you have any questions.

Thanks,
Jenna

From: Richard, JoAnna - DWD
Sent: Wednesday, April 01, 2009 3:28 PM
To: Pawasarat, Jane - DOA
Cc: Weidner, Jenna M - DOA; Erickson, Jessica L - DWD
Subject: FW: UI drafting language

FYI

JoAnna Richard
Deputy Secretary
Department of Workforce Development
608-267-3200

Check out the new www.JobCenterOfWisconsin.com

From: LaRocque, Daniel J - DWD
Sent: Wednesday, April 01, 2009 2:53 PM
To: Richard, JoAnna - DWD; Erickson, Jessica L - DWD
Cc: Bergan, Hal - DWD; Reid, Andrea - DWD; Schwalbe, Tracey L - DWD
Subject: FW: UI drafting language

Joanna/Jess:

This is a rough draft of the UI Modernization and Extended Benefits law changes. We intend to transmit it to Jeff Kuesel at LRB for his use in drafting. Let us know if it is okay to send.

Dan

From: Schwalbe, Tracey L - DWD
Sent: Wednesday, April 01, 2009 2:51 PM
To: LaRocque, Daniel J - DWD
Subject: FW: UI drafting language

This is the draft language without the charging provision.

04/01/2009

UI BILL PROVISIONS**UI Modernization Optional Law Changes****Part-time**

Delete references to full-time work in DWD 128 requirements that claimant be available for work:

DWD 128.01(4) AVAILABLE FOR WORK. (a) *Withdrawal from labor market.* Available for work means that the claimant maintains an attachment to the labor market and is ready to perform suitable work in the claimant's labor market area. ...

Deleted: full-time

[and all other subdivisions that refer to "full-time"]

Q. Would 108.04(7)(cm) need to be changed?

108.04(7)(cm) Paragraph (a) does not apply if an employee is hired to work a particular shift and if the department determines that the employee terminated his or her work as the result of a requirement by his or her employing unit to transfer his or her working hours to a shift occurring at a time that would result in a lack of child care for his or her minor children, provided that the employee is able to work and available for work during the same shift that the employee worked in the employee's most recent work with that employing unit. For purposes of sub. (2) (a), such an employee is not deemed unavailable for work solely for refusing to work a shift other than the one for which the employee was hired.

Deleted: full-time

In the alternative, draft a stand-alone provision applicable to begin after at a specified time that could later be repealed. Note that whether the department looks back at whether the claimant had part-time work in the base period is for the state to decide. This may be affected by the fiscal analysis. For administrative purposes, Benefits indicates that this would be extremely administratively burdensome with current staff.

- For example, California law provides:

Cal Unemp Ins Code § 1253.8. Part-time workers

An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work. If an individual restricts his or her availability to part-time work, he or she may be considered to be able to work and available for work pursuant to subdivision (c) of Section 1253 if it is determined that all of following conditions exist:

- (a) The claim is based on the part-time employment.
- (b) The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the wage credits were accrued.
- (c) The claimant imposes no other restrictions and is in a labor market in which a reasonable demand exists for the part-time services he or she offers.

- For example, Georgia is proposing the following amendment:

"As used in this chapter, the term 'bona fide in the labor market' means that any person claiming benefits under this chapter must be available for full-time employment, as that term is generally understood in the trade or work classification involved, without regard to prior work restrictions [A], PROVIDED THAT NO INDIVIDUAL WHO IS OTHERWISE ELIGIBLE SHALL BE DEEMED INELIGIBLE FOR BENEFITS SOLELY BECAUSE THE INDIVIDUAL SEEKS, APPLIES FOR, OR ACCEPTS ONLY PART-TIME WORK, INSTEAD OF FULL-TIME WORK, PROVIDED THE INDIVIDUAL CLAIMING BENEFITS WORKED PART-TIME DURING A MAJORITY OF THE WEEKS OF WORK IN THE BASE PERIOD AND THE INDIVIDUAL IS AVAILABLE FOR PART-TIME WORK FOR AT LEAST 20 HOURS PER WEEK <A>."

Domestic Abuse (as proposed in D09-08)

Amend current law as follows:

108.04(7)(s) 1. In this paragraph:

a. "Domestic abuse" means physical abuse, including a violation of s. 940.225 (1), (2) or (3), or a threat of physical abuse by an adult family or adult household member against another family or household member; by an adult person against his or her spouse or former spouse; by an adult against an adult with whom the individual has or had a dating relationship; or by an adult person against a person with whom the person has a child in common.

b. "Family member" means a spouse, parent, child or person related by blood or adoption to another person.

c. "Household member" means a person who is currently or formerly residing in a place of abode with another person.

Deleted: consanguinity

2. Paragraph (a) does not apply if the employee:

a. Terminates his or her work due to domestic abuse, concerns about personal safety or harassment, concerns about the safety or harassment of his or her family members who reside with the employee or concerns about the safety or harassment of other household members; and

b. Provides to the department an order of protection or other document of equitable relief issued by a court of competent jurisdiction, a police report documenting the domestic abuse, medical documentation of the domestic abuse, or evidence of domestic abuse from a counselor, social worker, health worker or domestic violence shelter worker.

Deleted: Prior to termination of his or her employment, obtains a temporary restraining order or an injunction under s. 813.12, 813.122, 813.123, 813.125 or 813.127, or has a foreign protection order recognized under s. 813.128; and
c. Demonstrates to the department that the order has been or is reasonably likely to be violated.

Illness or disability

Amend current law as follows:

108.04(7)(c) Paragraph (a) does not apply if the department determines that the employee terminated his or her work because the employee was unable to do his or her work or because of the health of a member of his or her immediate family and the verified illness necessitates the care of the ill person for a period of time longer than the employer is willing to grant leave; but if the department determines that the employee is unable to work or unavailable for work, the employee is ineligible to receive benefits while such inability or unavailability continues.

Deleted: but had no reasonable alternative

Quit to Follow Spouse

Create 108.04(7)(t):

(t) Paragraph (a) does not apply if the department determines that the employee terminated his or her work to accompany a spouse to a place from which it is impractical to commute and due to a spouse's change in location of employment.

Extended Approved Training

Create a new provision, for example, §108.04(16e):

108.04(16e) (1) An unemployed claimant who has exhausted all rights to regular compensation, federal emergency compensation benefits, and extended benefits under s. 108.141, is enrolled in and making satisfactory progress in a program approved under s. 108.04(16) prior to the end of the claimant's benefit year established with respect to the separation that qualified the individual for the training benefit, and is not receiving any stipends or training allowances for non-training costs, may be entitled to additional unemployment compensation of up to 26 weeks equal to the individual's weekly benefit rate for the most recent benefit year, provided:

(a) The individual has been separated from a declining occupation, or involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations; and
(b) The individual is being trained for entry into a high-demand occupation.

(2) Any benefit payment made under this section may be reduced as provided in s. 108.05(3) and may not extend more than one year beyond the end of the claimant's benefit year established with respect to the separation that qualified the individual for the training benefit.

108.04(16)

Dependents Allowances

Create new law provision, for example, §108.055:

§108.055 Dependents allowances. (1) Each individual who is eligible to receive an unemployment benefit with respect to any week may be eligible for a dependency allowance of \$15 per dependent living in the claimant's household, not to exceed \$50 per week, provided:

(a) The dependent was claimed by the individual on the prior year's federal income tax return or will be claimed during the claimant's benefit year; and

(b) The dependent is not being claimed as a dependent by any other individual receiving unemployment benefits for the same week;

(2) The amount of the individual's dependency allowance shall not change for the duration of the claimant's benefit year.

Extended Benefits Provisions

Amend 108.141(1)(a) ["Eligibility period" means....]

108.141(1) (a) "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year which begin in an extended benefit period and, if the individual's benefit year ends within such extended benefit period, any weeks thereafter which begin in such period. For weeks of unemployment beginning on or after February 17, 2009, and ending before June 1, 2010, or with the last week for which federal sharing is authorized by Section 2005(a) of PL 111-5 and any amendments thereto, "eligibility period" also means the period consisting of the weeks during which an individual is eligible for Emergency Unemployment Compensation under PL 110-252 and PL 110-449, or any amendments thereto, when such weeks begin in an extended benefit period or if the individual's eligibility for benefits under PL 110-252 and PL 110-449 ends within an extended benefit period, any weeks thereafter which begin in such period.

Amend 108.141(1)(b)2. ["Exhaustee" means...]:

2. His or her benefit year having expired in the extended benefit period and prior to such week, lacks base period wages on the basis of which he or she could establish a benefit year under s.

108.06; or

Deleted: and

Re-number 108.141(1)(b)3. to 108.141(1)(b)4.:

4. Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act or such other federal laws as are specified in regulations issued by the U.S. secretary of labor, and has not received and is not seeking unemployment benefits under the unemployment insurance law of Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is an exhaustee.

Deleted: 3

Create 108.141(1)(b)3.:

3. For weeks of unemployment beginning on or after February 17, 2009, and ending before June 1, 2010, or with the last week for which federal sharing is authorized by sec. 2005(a) of PL 111-5 and any amendments thereto, has exhausted federal Emergency Unemployment Compensation under PL 110-252 and PL 110-449; and,

Deleted:

Repeal and recreate 108.141(1)(e):

108.141(1)(e) There is a Wisconsin "off" indicator for a week only if, for the period consisting of such week and the immediately preceding twelve weeks, none of the options specified in paragraph (f) result in an "on" indicator or the provisions of sub. (1m) apply.

Repeal and recreate 108.141(1)(f):

108.141(1)(f) Except as provided in sub. (1m), there is a Wisconsin "on" indicator for a week if:

1. The rate of insured unemployment for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding calendar years, and equaled or exceeded 5 percent; or

2. The rate of insured unemployment for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 6 percent, regardless of the rate of insured unemployment in the two previous years; or

3. With respect to weeks of unemployment beginning on or after February 1, 2009, and ending with the week ending three weeks prior to the last week for which federal sharing is authorized by Section 2005(a) of Public Law 111-5 and any amendments thereto:

a. The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and

b. The average rate of total unemployment in the State (seasonally adjusted), as determined by the United States Secretary of Labor, for the 3-month period referred to in clause (i), equals or exceeds 110 percent of such average for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years.

Repeal and recreate 108.141(5):

108.141(5) TOTAL EXTENDED BENEFIT AMOUNT.

(a) The total extended benefit amount payable to any eligible individual with respect to the applicable benefit year shall be the least of the following amounts:

1. Fifty percent of the total amount of regular benefits which were payable to the individual in the individual's most recent benefit year rounded down to the nearest dollar, including benefits canceled pursuant to s. 108.04(5); or

2. Thirteen times the individual's weekly benefit amount.

(b) The amount of total extended benefits shall be reduced by the total amount of additional benefits paid (or deemed paid) to the individual under the provisions of s. 108.142 for weeks of unemployment in the individual's benefit year which began prior to the effective date of the extended benefit period which is current in the week for which the individual first claims extended benefits.

(c)1. Effective with respect to weeks beginning in a high unemployment period, paragraph (a) shall be applied by substituting:

a. "Eighty percent" for "fifty percent" in subdivision 1., and

b. "Twenty" for "thirteen" in subdivision 2.

2. For purposes of subdivision 1., the term "high unemployment period" means any period during which an extended benefit period would be in effect if subsection (1)(f)3.a. were applied by substituting "8 percent" for "6.5 percent".

Language Needed for UI Modernization Appropriations

Repeal current 108.161(3e) as outdated:

(3) Consistently with this chapter and said section 903, such moneys shall be used solely for benefits or employment security administration by the department, including unemployment insurance, employment service, apprenticeship programs, and related statistical operations.

(3e).

Recreate (3e) to reflect the limitation in ARRA that 903(g) funds be limited solely to administration:

(3e) Notwithstanding sub (3), any moneys allocated under section 903(g) of the federal Social Security Act, as amended, shall be used solely for administration of the provisions of state law to carry out the purposes of Sec. 2003 of PL 111-5, improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the state law modified to carry out the purposes of Sec. 2003 of PL 111-5, the improvement of unemployment benefit and unemployment tax operations, and staff-assisted reemployment services for unemployment benefit claimants.

Deleted: Notwithstanding sub. (3), any moneys allocated under section 903 of the federal Social Security Act, as amended, for federal fiscal years 2000 and 2001 and the first \$2,389,107 of any distribution received by this state under section 903 of that act in federal fiscal year 2002 shall be used solely for unemployment insurance administration. ¶

Amend 108.161(4)(c) regarding the 2-year limit on the appropriations, which is not applicable to 903(g) funds:

108.161(4) Such moneys shall be encumbered and spent for employment security administrative purposes only pursuant to, and after the effective date of, a specific legislative appropriation enactment:

(c) Specifying that the appropriated amounts are available for obligation solely within the 2 years beginning on the appropriation law's date of enactment. This paragraph does not apply to the appropriations under s. 20.445 (1) (nb), (nd), (ne), and (ng) from moneys transferred to this state pursuant to sections 903 (d) and (g) of the federal Social Security Act.

Create 20.445(1)(ng):

20.445(1)(ng) Unemployment insurance administration and public employment offices. From the moneys received from the federal government under section 903(g) of the federal Social Security Act, as amended, and as a continuing appropriation, the amounts in the schedule, as authorized by the governor under s. 16.54, to be used for administration of the provisions of state law to carry out the purposes of Sec. 2003 of PL 111-5, improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the state law modified to carry out the purposes of Sec. 2003 of PL 111-5, the improvement of unemployment benefit and unemployment tax operations, and staff-assisted reemployment services for unemployment benefit claimants.

Amend 20.445(1)(n) through (ne):

20.445(1)(n) Employment assistance and unemployment insurance administration; federal moneys. All federal moneys received, as authorized by the governor under s. 16.54, for the administration of employment assistance and unemployment insurance programs of the department, for the performance of the department's other functions under subch. 1 of ch. 106 and ch. 108, except moneys otherwise appropriated under par. (na) through (ng), and to pay the compensation and expenses of appeal tribunals and of employment councils appointed under s. 108.14, to be used for such purposes, except as provided in s. 108.161 (3e).

(na) *Employment security buildings and equipment.* All federal moneys transferred from par. (n) for the purpose of funding employment security buildings and equipment under ss. 108.161 and 108.162.

(nb) *Unemployment administration; information technology systems.* From the moneys received from the federal government under section 903 (d) of the federal Social Security Act, as amended, as a continuing appropriation, the amounts in the schedule, as authorized by the governor under s. 16.54, for the purpose specified in s. 108.19

(1e) (d), not to exceed the lesser of the amount specified in s. 108.161(4)(d) or the amount in the schedule. No moneys may be expended from this appropriation unless the treasurer of the unemployment reserve fund determines that such expenditure is currently needed for the purpose specified in s. 108.19 (1e) (d).

(nd) *Unemployment administration; apprenticeship.* From the moneys received from the federal government under section 903 (d) of the federal Social Security Act, as amended, the amounts in the schedule, as authorized by the governor under s. 16.54, to be used for administration by the department of apprenticeship programs under subch. 1 of ch. 106. No moneys may be expended from this appropriation unless the treasurer of the unemployment reserve fund determines that such expenditure is currently needed for the purpose specified in this paragraph.

(ne) *Unemployment administration; bank service costs.* From the moneys received by this state under section 903 (d) of the federal Social Security Act, as amended, to be used for the payment of the cost of banking services incurred by the unemployment reserve fund. No moneys may be expended from this appropriation unless the treasurer of the unemployment reserve fund determines that such expenditure is currently needed for the purpose specified in this paragraph.

Repeal 20.445(1)(nf):

- ~~Deleted: and~~
- ~~Deleted: or to any amounts expended from the appropriation under s. 20.445 (1) (nb)~~
- ~~Deleted: on March 13, 2002,~~
- ~~Deleted: ¶~~
- ~~Formatted: Font: 10 pt, Bold, Underline~~
- ~~Deleted: f~~
- ~~Deleted: , and, from the moneys received by this state under section 903 (d) of the federal Social Security Act, as amended, to transfer to the appropriation account under par. (nb) an amount determined by the treasurer of the unemployment reserve fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the appropriation account under par. (nd) an amount determined by the treasurer of the unemployment reserve fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amounts in the schedule under par. (nd), and to transfer to the appropriation account under par. (ne) an amount determined by the treasurer of the unemployment reserve fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amount required to pay for the cost of banking services incurred by the unemployment reserve fund.~~
- ~~Deleted: All moneys transferred from par. (n) for this purpose shall be credited to this appropriation account.~~
- ~~Deleted: All moneys transferred from par. (n) for this purpose shall be credited to this appropriation account.~~
- ~~Deleted: all moneys transferred from the appropriation account under par. (n)~~
- ~~Deleted: (nf) Unemployment insurance administration. From the moneys received from the federal government under section 903 of the federal Social Security Act, as amended, for federal fiscal year 2002, as a continuing appropriation, the amounts in the schedule, as authorized by the governor under s. 16.54, to be used for the administration of unemployment insurance. No moneys appropriated under this paragraph for the 2008-09 fiscal year may be encumbered or expended prior to October 1, 2008. No moneys may be encumbered or expended from this appropriation after September 30, 2009.~~

2

Kuesel, Jeffery

From: Weidner, Jenna M - DOA [Jenna.Weidner@wisconsin.gov]
Sent: Thursday, April 02, 2009 3:54 PM
To: Kuesel, Jeffery
Subject: RE: More UI drafting

Yes, thank you very much, Jeff.

From: Kuesel, Jeffery [mailto:Jeffery.Kuesel@legis.wisconsin.gov]
Sent: Thursday, April 02, 2009 3:48 PM
To: Weidner, Jenna M - DOA
Subject: RE: More UI drafting

Jenna,

I assume you want this to be included in the same package with the other changes you requested yesterday. I will consult with Dan LaRocque and Tracey Schwalbe as I begin moving through the drafting process to minimize the potential for redrafting.

Jeff Kuesel

From: Weidner, Jenna M - DOA [mailto:Jenna.Weidner@wisconsin.gov]
Sent: Thursday, April 02, 2009 1:28 PM
To: Kuesel, Jeffery
Cc: Pawasarat, Jane - DOA; Hanaman, Cathlene
Subject: More UI drafting

Hi Jeff,

We have a technical change to Wisconsin's Extended Benefits law for drafting. This is not the High EB trigger that we already discussed including within the package of legislative changes needed because of the ARRA. There is Extended Benefits and then High Extended Benefits and we need to make law changes in both of these areas.

Basically, we need to clarify our state statutes to trigger the EB program off when unemployment declines and prevent a period of Extended Benefits from continuing that is not intended and most importantly, would be unfunded by the federal government.

Below is more information. Please let me know if you have any questions.

Thank you,
Jenna

Brief Statement of the Issue and Opinion

Wisconsin's EB law, Wis. Stat. §108.141, will need to be amended for technical but important reasons, the most significant of which are the "trigger" provisions. Amendment is advisable so that the statute conforms to federal law, triggers off the program as intended when unemployment declines and prevents a period of extended benefits from continuing that is not intended and would be unfunded by the federal government.

The Wisconsin statutes discussed in this memo were drafted in the 1970s. The Wisconsin statute will not allow the EB period to end until the IUR drops below 5% IUR for 13 weeks and below the "120% average" over preceding 2 years (explained below). The Wisconsin "off" trigger is clearly more "generous" than federal law requires. EB paid beyond the period prescribed by federal law would not be federally funded.

Description of the Problem with the Statute and Recommended Solution

Federal EB law, enacted in 1970, and DOL's formal rules interpreting the law prescribe the necessary state law provisions for EB. Among the specific requirements is the mechanism for beginning and ending the "extended benefit period", the

04/02/2009

period of time (weeks) during which EB benefits are paid. The on and off provisions are referred to in the statutes as "on" and "off" indicators and informally called "triggers."

"On" triggers: Wisconsin's rate of insured unemployment ("IUR") increased in late 2008 and early 2009, causing EB to trigger "on" in week 8, resulting in the EB period beginning in week 11. Specifically, the trigger provision was satisfied in week 8 because the IUR reached both: (a) 5% for a 13-week period [including week 8] and (b) "120% of the average of such rates [13-week IURs] for the corresponding 13-week period ending in each of the preceding 2 calendar years."

The law also provides that an IUR of 6% for a 13-week period would trigger "on" EB regardless of the 120% requirement. So, in summary, as IURs increase, there are two ways to trigger "on" EB: (1) 5% IUR for 13 weeks and 120% average over preceding 2 years; or (2) 6% IUR for 13 weeks.

There is no problem with the law or its interpretation on the foregoing points. The problem is with the "off" triggers.

"Off" triggers: Federal rules say that the off triggers to be used by states to end an EB period are to be the same triggers as are used to trigger "on" EB. According to the federal statute and more specific statements in the federal rules, that means that as IURs are falling, the EB period will remain open until none of the triggers would cause the EB period to be "on".

Certain federal regulations that are still more specific clearly say that there is not an "off" indicator, or trigger, until: (1) the IUR drops below 5% for the consecutive 13-week period; or (2) both (a) the IUR drops below 6% for the consecutive 13-week period and (b) below the 120% average over preceding 2 years. In other words, the EB period will end if the state's IUR falls below either the 5% 13-week standard or both the 6% and 120% standards.

The clear implication is that a more "generous" EB period than this specific rule prescribes would not receive federal funding.

The Wisconsin EB statutory provisions on the issues raised in this memo were drafted in the 1970s. The Wisconsin provision is rather clear. It will not allow the EB period to end until the IUR drops below the level of 5% IUR for 13 weeks and below the 120% average over preceding 2 years.

Wis. Stat. §108.141(1)(e), provides:

(e) There is a Wisconsin "off" indicator for a week if the department determines, in accordance with the regulations of the U.S. secretary of labor, that, for the period consisting of such week and the immediately preceding 12 weeks, the Wisconsin rate of insured unemployment (not seasonally adjusted):

1. Was less than 6% and less than 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; and
2. Was less than 5%.

It seems clear that the use of the conjunction (rather than "or") between the two prongs was an error in drafting subsection (1)(e) with the adoption of EB. (Although the Wisconsin "off" trigger provision refers to the 6% IUR, that reference is superfluous. The 6% IUR would have no bearing on whether the EB period is turned "off" because, according to the clear wording of the Wisconsin law, the IUR would have to drop below the 5% level in any event.) As drafted, the Wisconsin provisions for "off" trigger provisions are, in effect, more "generous" than the federal appears to clearly allow and prescribe.

In summary, federal rules say that the EB period is triggered "off" when the IUR drops below both the 6% level for the 13-week period and the 120% average over preceding 2 years, and need not drop below 5%. Wis. Stat. §108.141 should be amended to conform to the federal law and to prevent the Wisconsin law from compelling the Wisconsin reserve fund to pay benefits not intended by the federal and state enactments. There are various ways to draft the amendment. An amendment as simple as changing "and" to "or" in Wis. Stat. §108.141(1)(e) would accomplish the needed result.

Jenna Weidner

Executive Policy and Budget Analyst

Wisconsin State Budget Office, DOA-DEBF

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Madison, WI 53702

(608)266-7329

jenna.weidner@wisconsin.gov

04/02/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2556/7
JTK...
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

- Gen.
- 1 AN ACT ...; relating to: eligibility for unemployment insurance benefits, payment
 - 2 of extended benefits, expenditure of special federal financial assistance
 - 3 moneys, and making appropriations?

Analysis by the Legislative Reference Bureau

This bill expands eligibility for unemployment insurance benefits and changes the duration of federal/state extended benefits.

BENEFIT ELIGIBILITY

Part-time work

Currently, with certain exceptions, a claimant is eligible to receive benefits for any week in which the claimant earns no wages only if the claimant is able to work and available for work during that week. If a claimant limits his or her available hours so that he or she is only available for part-time work in a given week, the claimant may become ineligible to receive benefits for that week. This bill provides that a claimant who is otherwise eligible for benefits does not become ineligible solely because the claimant seeks, applies for, or accepts only part-time work, provided that the claimant engaged in part-time work, consisting of not more than 32 hours per week, for a majority of weeks in his or her base period (period preceding a claim during which benefit rights accrue) and the claimant is available for part-time work of at least 20 hours per week.

Voluntary termination of employment

Currently, if an employee voluntarily terminates his or her work for an employer, the employee is generally ineligible to receive benefits until four weeks

requalifying

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 four times the employee's weekly benefit rate in employment covered by the unemployment insurance law of any state or the federal government. However, an employee may terminate his or her work and receive benefits without requalifying under this provision, among other reasons 1) if the employee terminates his or her work due to domestic abuse or concerns about the personal safety or harassment of the employee's family or household members; or 2) if the employee was unable to work due to the health of a health of a family member. This bill expands the domestic abuse exception to include abuse or threat of abuse by an unrelated individual with whom the employee had a personal relationship and includes an adopted relative in the definition of family member, and permits the domestic abuse or concerns to be verified either by a protective order or by a report of a law enforcement agency or evidence provided by a licensed health care professional or an employee of a shelter. The bill also provides that requalification is not required if an employee's spouse changed his or her place of employment to a place to which it is impractical to commute and the employee terminated his or her work to accompany the spouse to that place.

Approved training in high-demand occupations

Currently, benefits may not be denied to an otherwise eligible claimant because the claimant is enrolled in a vocational training course or a basic education course that is a prerequisite to such training ("approved training") under certain conditions. Currently, unless a claimant qualifies for federal/state extended benefits, Wisconsin supplemental benefits or federal emergency compensation and unless certain other exceptions apply, no claimant may receive total benefits based on employment in a base period greater than 26 times the claimant's weekly benefit rate or forty percent of the claimant's base period wages, whichever is lower. This bill provides that if a claimant has exhausted all other benefits prior to the end of the claimant's benefit year (period during which benefits are payable) that qualified the claimant for benefits while enrolled in approved training and is not receiving any stipends or training allowances for nontraining costs is entitled to an additional benefits of up to 26 weeks at the same benefit rate that applied to the claimant during his or her most recent benefit year if 1) the claimant has been separated from employment in a declining occupation or involuntarily separated from employment as a result of a permanent reduction in operations by his or her employer; and 2) the claimant is being trained for entry into a high-demand occupation.

PAYMENT OF EXTENDED BENEFITS

Currently, the maximum number of weeks of benefits that an eligible claimant may qualify to receive is normally 26 weeks. However, during certain periods of high unemployment in this state, as defined by law, claimants who have exhausted all their rights to receive benefits in a given benefit year may potentially qualify to receive up to an additional 13 weeks of "extended benefits", the costs of which, with certain exceptions, are shared between the federal government and employers in this state. Under recent federal legislation, the employer share is also paid in most cases by the federal government beginning with weeks of unemployment beginning on or

is enrolled in and making satisfactory progress in an approved training program under current law

5/26/09 extended benefits

seven

after February 1, 2009, and ending with the last week beginning in 2009, and, for claimants who begin a benefit year before that date, ending with the last week ending before June 1, 2010. In addition, during periods of exceptionally high unemployment in this state, as defined in the bill, claimants who qualify for may qualify to receive an additional 7 weeks of extended benefits that are financed in the same manner. This bill changes state law to conform with the recent federal legislation so as to enable claimants in this state to qualify for these extended benefits and to enable full participation by this state in federal cost sharing for these benefits.

EXPENDITURE OF SPECIAL FEDERAL ASSISTANCE MONEYS

Currently, state unemployment insurance and employment assistance programs are funded with federal revenue. This bill appropriates special federal financial assistance that may be received by this state under recent federal legislation for the purpose of administering the provisions of this bill that carry out the purposes of recent special federal legislation, for outreach to individuals who may be eligible to receive regular benefits by virtue of those provisions, for the improvement of unemployment insurance benefit, contribution (tax) and reimbursement administration, and to provide staff-assisted reemployment services to claimants.

x

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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:

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3

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

20.445 (1) (n) *Employment assistance and unemployment insurance administration; federal moneys.* All federal moneys received, as authorized by the governor under s. 16.54, for the administration of employment assistance and unemployment insurance programs of the department, for the performance of the department's other functions under subch. I of ch. 106 and ch. 108, except moneys appropriated under ~~par. (na)~~ ^{pars.} to (nf), and to pay the compensation and expenses of appeal tribunals and of employment councils appointed under s. 108.14, to be used for such purposes, except as provided in s. 108.161 (3e), and, ~~from the moneys received by this state under section 903 (d) of the federal Social Security Act, as~~

10

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

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 37, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 65; 2007 a. 20, 59.

12 **SECTION 2. 20.445 (1) (nb) of the statutes is amended to read:**

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

- 1 108.19 (1e) (d) not exceeding the lesser of the amount specified in s. 108.161 (4) (d)
2 or the amounts in the schedule.✓

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772nn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 65; 2007 a. 20, 59.

- 3 **SECTION 3.** 20.445 (1) (nd) of the statutes is amended to read:

- 4 20.445 (1) (nd) *Unemployment administration; apprenticeship.* From the
5 moneys received from the federal government under section 903 (d) of the federal
6 Social Security Act, as amended, the amounts in the schedule, as authorized by the
7 governor under s. 16.54, to be used for administration by the department of
8 apprenticeship programs under subch. I of ch. 106. ~~All moneys transferred from par.~~
9 ~~(n) for this purpose shall be credited to this appropriation account.~~ No moneys may
10 be expended from this appropriation unless the treasurer of the unemployment
11 reserve fund determines that such expenditure is currently needed for the purpose
12 specified in this paragraph.✓

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772nn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 65; 2007 a. 20, 59.

- 13 **SECTION 4.** 20.445 (1) (ne) of the statutes is amended to read:

- 14 20.445 (1) (ne) *Unemployment administration; bank service costs.* From the
15 moneys received by this state under section 903 (d) of the federal Social Security Act,
16 as amended, ~~all moneys transferred from the appropriation account under par. (n)~~
17 the amounts in the schedule to be used for the payment of the cost of banking services
18 incurred by the unemployment reserve fund. No moneys may be expended from this
19 appropriation unless the treasurer of the unemployment reserve fund determines

1 that such expenditure is currently needed for the purpose specified in this
2 paragraph.✓

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 36, 78, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 264; 2007 a. 20, 59.

3 **SECTION 5.** 20.445 (1) (ng) of the statutes is created to read:

4 20.445 (1) (ng) *Unemployment administration; special federal assistance;*
5 *reemployment services.* From the moneys received from the federal government
6 under section 903 (g) of the federal Social Security Act, as amended, as a continuing
7 appropriation, the amounts in the schedule, as authorized by the governor under s.
8 16.54,✓ to be used for administration of the provisions of state law enacted to carry out
9 the purposes of section 2003 of P.L. 111-5, for outreach to individuals who may be
10 eligible for regular unemployment insurance benefits by virtue of the provisions of
11 ch. 108,✓ enacted to carry out the purposes of section 2003 of P.L. 111-5, for the
12 improvement of unemployment insurance benefit, contribution, and reimbursement
13 administration, and to provide staff-assisted reemployment services to benefit
14 claimants.✓

15 **SECTION 6.** 108.04 (2) (a) (intro.) of the statutes is amended to read:

16 108.04 (2) (a) (intro.) Except as provided in ~~par.~~ pars. (am)✓ and (b) and as
17 otherwise expressly provided, a claimant is eligible for benefits as to any given week
18 for which he or she earns no wages only if:✓

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 33; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59.

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

20 108.04 (2) (am) A claimant who is otherwise eligible for benefits is not ineligible
21 solely because the claimant seeks, applies for, or accepts only part-time work,
22 provided that the claimant engaged in part-time work, consisting of not more than

1 32 hours per week, for a majority of the weeks in his or her base period and the
2 claimant is available for part-time work for at least 20 hours per week.✓

3 SECTION 8. ✓ 108.04 (7) (c) of the statutes is amended to read:✓

4 108.04 (7) (c) Paragraph (a) does not apply if the department determines that
5 the employee terminated his or her work but had no reasonable alternative because
6 the employee was unable to do his or her work or because of the health verified illness
7 of a member of his or her immediate family and the verified illness necessitates the
8 care of the family member for a period of time that is longer than the employer is
9 willing to grant leave; but if the department determines that the employee is unable
10 to work or unavailable for work, the employee is ineligible to receive benefits while
11 such inability or unavailability continues.✓

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59.

12 SECTION 9. 108.04 (7) (h) of the statutes is amended to read:

13 108.04 (7) (h) The department shall charge to the fund's balancing account
14 benefits paid to an employee that are otherwise chargeable to the account of an
15 employer that is subject to the contribution requirements of ss. 108.17 and 108.18
16 if the employee voluntarily terminates employment with that employer and par. (a),
17 (c), (d), (e), (k), (L), (o), (p), (q), or (s) [↑] or (t) applies.✓

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59.

18 SECTION 10. 108.04 (7) (s) 1. a. and b. of the statutes are amended to read:

19 108.04 (7) (s) 1. a. "Domestic abuse" means physical abuse, including a
20 violation of s. 940.225 (1), (2) or (3), or a threat of physical abuse by an adult family
21 or adult household member against another family or household member; by an
22 adult person against his or her spouse or former spouse; or by an adult person against

1 a person with whom the person has a child in common; or by an adult person against
2 an unrelated adult person with whom the person has had a personal relationship.✓

3 b. "Family member" means a spouse, parent, child or person related by
4 consanguinity blood or adoption to another person.✓

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 28, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 47; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59.

5 SECTION 11. 108.04 (7) (s) 1. bn. and d. to f. of the statutes are created to read:

6 108.04 (7) (s) 1. bn. "Health care professional" has the meaning given under s. ^{e in}
7 180.1901 (1m).✓

8 d. "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).✓

9 e. "Protective order" means a temporary restraining order or an injunction
10 issued under s. 813.12[✓], 813.122[✓], 813.123[✓], 813.125[✓], or 813.127[✓], or a foreign protection
11 order recognized under s. 813.128.✓

12 f. "Shelter" has the meaning given in s. 6.47 (1) (e).✓

13 SECTION 12. 108.04 (7) (s) 2. a. of the statutes is amended to read:

14 108.04 (7) (s) 2. a. Terminates his or her work due to domestic abuse, concerns about
15 personal safety or harassment, concerns about the safety or harassment of his or her
16 family members who reside with the employee or concerns about the safety or
17 harassment of other household members; and✓

18 SECTION 13. 108.04 (7) (s) 2. b. of the statutes is repealed and recreated to read:

19 108.04 (7) (s) 2. b. Provides to the the department a protective order relating
20 to the domestic abuse or concerns about personal safety or harassment issued by a
21 court of competent jurisdiction, a report by a law enforcement agency documenting
22 the domestic abuse or concerns, or evidence of the domestic abuse or concerns
23 provided by a health care professional or an employee of a shelter.✓

24 SECTION 14. 108.04 (7) (s) 2. c. of the statutes is repealed.

1 SECTION 15. 108.04 (7) (t) of the statutes is created to read:

2 108.04 (7) (t) Paragraph (a) does not apply if the department determines that
3 the employee's spouse changed his or her place of employment to a place to a place
4 to which it is impractical to commute and the employee terminated his or her work
5 to accompany the spouse to that place.

6 SECTION 16. 108.06 (1) of the statutes is amended to read:

7 108.06 (1) Except as provided in sub. ~~subs.~~ (6) and (7) and ss. 108.141 and
8 108.142, no claimant may receive total benefits based on employment in a base
9 period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1)
10 or 40% of the claimant's base period wages, whichever is lower. Except as provided
11 in sub. (6) and ss. 108.141 and 108.142, if a claimant's base period wages are reduced
12 or canceled under s. 108.04 (5) or (18), or suspended under s. 108.04 (1) (f), (10) (a),
13 or (17), the claimant may not receive total benefits based on employment in a base
14 period greater than 26 times the claimant's weekly benefit rate under s. 108.05 (1)
15 or 40% of the base period wages not reduced, canceled or suspended which were paid
16 or payable to the claimant, whichever is lower.

History: 1971 c. 53; 1975 c. 343; 1981 c. 36; 1983 a. 8 ss. 23 to 27, 53, 55 (3), (4), (12), (13) and (14) and 56; 1983 a. 27 s. 1807m; 1983 a. 337; 1985 a. 17; 1987 a. 38, 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15; 2001 a. 43.

17 SECTION 17. 108.06 (7) of the statutes is created to read:

18 108.06 (7) (a) Except as provided in par. (b), a claimant who has exhausted all
19 rights to regular benefits ^{making} federal emergency compensation benefits under P.L.
20 110-252 and P.L. 110-449, and extended benefits under s. 108.141 (16) prior to the
21 end of the claimant's benefit year established with respect to the separation that
22 qualified the claimant for benefits under ^{s. 108.04 (16)} sub. (16) and is not receiving any stipends
23 or training allowances for nontraining costs is entitled to additional benefits of up

1 to 26 weeks at the same benefit rate that applied to the claimant's most recent benefit
2 year if the claimant is not otherwise disqualified and if:

3 1. The claimant has been separated from employment in a declining
4 occupation, or involuntarily separated from employment as a result of a permanent
5 reduction in operations by his or her employing unit; and[✓]

6 2. The claimant is being trained for entry into a high-demand occupation.[✓]

7 (b) Any benefits paid to a claimant under this subsection may be reduced as
8 provided in s. 108.05 (3)[✓] and may not extend for more than one year after the end of
9 the claimant's benefit year established with respect to the separation that qualified
10 the claimant for benefits under sub. (16).^{s. 108.04 (16) ✓}

11 SECTION 18. 108.141[✓] (1) (a) and (b) 2. of the statutes are amended to read:

12 108.141 (1) (a) "Eligibility period" of an individual means the period consisting
13 of the weeks in the individual's benefit year which begin in an extended benefit
14 period and, if the individual's benefit year ends within such extended benefit
15 any weeks thereafter which begin in such period. [^] BVS 16-15

16 (b) 2. His Except as provided in subd. 2m.[✓] his or her benefit year having
17 expired in the extended benefit period and prior to such week, lacks base period
18 wages on the basis of which he or she could establish a benefit year under s. 108.06;
19 and[✓]

20 SECTION 19. 108.141 (1) (b) 2m. of the statutes is created to read:

21 108.141 (1) (b) 2m. For weeks of unemployment beginning after February 17,
22 2009, and ending before June 1, 2010, or with the last week for which federal sharing
23 is authorized by sec. 2005 ^{e Section} (a) of P.L. 111-5 and any amendments thereto, whichever
24 is later, has exhausted federal emergency unemployment compensation under
25 P.L. 110-252 and P.L. 110-449; and
^Δ

1 SECTION 20. [✓][^]108.141 (1) (dm) of the statutes is created to read:

2 108.141 (1) (dm) "High unemployment period" means a period during which
3 an extended benefit period would be in effect if par. (f) 3. a. [✓]were applied by
4 substituting an average rate of total unemployment that equals or exceeds 8 percent. [✓]

5 SECTION 21. [✓]108.141 (1) (e) of the statutes, as affected by 2009 Wisconsin Act 1,
6 is repealed and recreated to read: 108.141

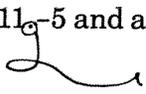
7 108.141 (1) (e) There is a Wisconsin "off" indicator for a week if, for the period
8 consisting of that week and the immediately preceding 12 weeks, there is not a
9 Wisconsin "on" indicator or sub. (1m) [✓]applies. [✓]

10 SECTION 22. [✓]108.141 (1) (f) of the statutes is repealed and recreated to read:

11 108.141 (1) (f) Except as provided in sub. (1m) [✓], there is a Wisconsin "on"
12 indicator for a week if:

13 1. The rate of insured unemployment for the period consisting of that week and
14 the immediately preceding 12 weeks equaled or exceeded 120 percent of the average
15 of such rates for the corresponding 13-week period ending in each of the preceding
16 2 calendar years, and equaled or exceeded 5 percent; or [✓]

17 2. The rate of insured unemployment for the period consisting of that week and
18 the immediately preceding 12 weeks equaled or exceeded 6 percent, regardless of the
19 rate of insured unemployment in the 2 preceding calendar years; or [✓]

20 3. With respect to weeks of unemployment beginning on or after February 1,
21 2009, and ending with the week ending 3 weeks prior to the last week in which
22 federal sharing is authorized by section 2005 (a) of P.L. 111-5 and any amendments
23 thereto: 

24 a. The average rate of total unemployment, seasonally adjusted, as determined
25 by the U.S. secretary of labor, for the period consisting of the most recent 3 months

1 for which data for all states are published before the close of that week equals or
2 exceeds 6.5 percent; and[✓]

3 b. The average rate of total unemployment in this state, seasonally adjusted,
4 as determined by the U.S. secretary of labor for the period consisting of the most
5 recent 3 months for which data for all states are published before the close of that
6 week equals or exceeds 110 percent of the average for either or both of the
7 corresponding 3-month periods ending in the 2 preceding calendar years.[✓]

8 SECTION 23. [✓]108.141 (5) of the statutes is repealed and recreated to read:

9 108.141 (5) TOTAL EXTENDED BENEFIT AMOUNT. (a) Except as provided in pars.
10 [✓](b) and (c), the total extended benefit amount payable to an eligible individual in his
11 or her benefit year is the least of the following amounts:[✓]

12 1. Fifty percent of the total amount of regular benefits that were payable to the
13 individual in the individual's most recent benefit year rounded down to the nearest
14 dollar, including benefits canceled under s. 108.04 (5);[✓] or

15 2. Thirteen times the individual's weekly benefit amount.[✓]

16 (b) The amount of total extended benefits shall be reduced by the total amount
17 of additional benefits paid or treated as paid under s. 108.142[✓] for weeks of
18 unemployment in the individual's benefit year that began prior to the beginning of
19 the extended benefit period that is in effect in the week in which the individual first
20 claims extended benefits.[✓]

21 (c) Except as provided in par. (b),[✓] effective with respect to weeks beginning in
22 a high unemployment period, the total extended benefit amount payable to an
23 individual in his or her benefit year is the least of the following amounts:[✓]

1 1. Eighty percent of the total amount of regular benefits that were payable to
2 the individual in the individual's most recent benefit year rounded down to the
3 nearest dollar, including benefits canceled under s. 108.04 (5); or

4 2. Twenty times the individual's weekly benefit amount.

5 **SECTION 24.** 108.161 (3e) of the statutes is repealed and recreated to read:

6 108.161 (3e) Notwithstanding sub. (3), any moneys allocated to this state
7 under section 903 (g) of the federal Social Security Act, as amended, shall be used
8 solely for administration of the provisions of state law enacted to carry out the
9 purposes of section 2003 of P.L. 111-5, for outreach to individuals who may be eligible
10 for regular benefits by virtue of the provisions of this chapter enacted to carry out the
11 purposes of section 2003 of P.L. 111-5, for the improvement of benefit, contribution,
12 and reimbursement operations, and to provide staff-assisted reemployment services
13 to benefit claimants.

14 **SECTION 25.** 108.161 (4) (c) of the statutes is amended to read:

15 108.161 (4) (c) Specifying that the appropriated amounts are available for
16 obligation solely within the 2 years beginning on the appropriation law's date of
17 enactment. This paragraph does not apply to the appropriations under s. 20.445 (1)
18 (nb), (nd) and, (ne) ^{and} (ng) or to any amounts expended from the appropriation
19 under s. 20.445 (1) (nb) from moneys transferred to this state on March 13, 2002,
20 pursuant to section 903 (d) and (g) of the federal Social Security Act.

History: 1971 c. 259; 1983 a. 8, 27; 1985 a. 29; 1991 a. 39; 1993 a. 492; 1995 a. 225; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2003 a. 33, 197.

21 **SECTION 26. Initial applicability.**

22 (1) The treatment of section 108.04 (2) (a) (intro.) and (am) of the statutes first
23 applies with respect to determinations issued under section 108.09 of the statutes on
24 the effective date of this subsection.

SECTION 26

①

(2) The treatment of sections 108.04 (7) (c), (h), (s) 1. a., bn. d., e. and f. and
2. a., b. and c. and (t) of the statutes first applies with respect to terminations of
employment occurring on the effective date of this subsection.

②

3

④

(3) The treatment of sections 108.04 (16m) and 108.06 (1) of the statutes first
applies

⑤

apply with respect to determinations issued under section 108.09 of the statutes on
the effective date of this subsection.

6

7

SECTION 27. Effective date.

8

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

9

(END)

D-note

2005

INS-11

LRB 2566 1 P1

File With Statute 20.005 (3) Schedule

JTK: : :

\$\$\$ SCHEDULE

In the component bar:

For the action phrase, execute: create -> action: -> ch20

For the table layout, execute: create -> <Table> -> \$sched

SECTION #. 20.005 (3) (schedule) of the statutes: at the appropriate place,

insert the following amounts for the purposes indicated:

2007-08 2008-09
2005-06 2006-07

20. 445 WORKFORCE DEVELOPMENT

DEPARTMENT OF

(1) WORKFORCE DEVELOPMENT

(ne) Unemployment administration; bank service costs

PR A -0- -0-

20.

()

(ng) Unemployment administration; special federal assistance; reemployment services PR A -0- -0-

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2556/P1dn

JTK...:f:...

nwn

Date

Jenna Weidner: ↗

> As I mentioned in a conversation today with Dan LaRocque, due to the expedited schedule for production of this draft, I have not time to perform the necessary checks that may necessitate changes to provisions of the statutes related to the changes that we are making in this draft. This task will be accomplished on the next redraft. We expect that DOA, DWD or the Council on Unemployment Insurance may also want to make some changes to the draft at that time.

> For this draft, I have included two appropriations but have specified "\$-0-" for expenditure in fiscal year 2008-09. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate. In addition, because the biennial budget act repeals and recreates the entire appropriation schedule, if this draft is introduced as a bill and the bill becomes law before enactment of the biennial budget act, any sum certain appropriations included in this act will need to be included in that act in order to carry forward into the next fiscal biennium.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2566/P1ins
JTK.....

INS 10-15

not For weeks of unemployment beginning on or after February 17, 2009, and ending before June 1, 2010, or the last week for which federal sharing is authorized by section 2005 (a) of P.L. 111-5 and any amendments thereto, whichever is later, "eligibility period" also means the period consisting of the weeks during which an individual is eligible for emergency unemployment compensation under P.L. 110-252 and P.L. 110-449, or any amendments thereto, and if such weeks begin in an extended benefit period or if an individual's eligibility for benefits under P.L. 110-252 and P.L. 110-449 ends within an extended benefit period, any weeks thereafter which begin in that period. ✓

Mike typed
this

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2556/P1dn
JTK:nwn:md

April 8, 2009

Jenna Weidner:

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Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Kuesel, Jeffery

From: Schwalbe, Tracey L - DWD [Tracey.Schwalbe@dwd.wisconsin.gov]
Sent: Thursday, April 16, 2009 3:03 PM
To: Kuesel, Jeffery
Cc: LaRocque, Daniel J - DWD
Subject: UI language

SECTION 18. 108.06 (7) of the statutes is created to read:

108.06 (7) (a) A claimant ^{who is otherwise eligible for benefits and who is} enrolled in and making satisfactory progress in a program specified in s. 108.04 (16) ~~may be~~ eligible for additional benefits of up to 26 weeks while in training, provided the claimant:

1. Exhausted all rights to regular benefits, federal emergency compensation benefits under P.L. 110-252 and P.L. 110-449, ^{as amended,} and extended benefits under s. 108.141;
 2. ~~Except as provided in par. (b),~~ ^{currently} is enrolled in and making satisfactory progress in a program approved under s. 108.04 (16) ^{first} prior to the end of the claimant's benefit year established with respect to the separation that qualified the claimant for benefits under this paragraph;
 3. ~~Except as provided in par. (b),~~ ^{is} enrolled in and making satisfactory progress in a training program in a program specified in s. 108.04 (16);
 4. Is not receiving any stipends or training allowances for nontraining costs;
 5. Has been separated from employment in a declining occupation or involuntarily separated from employment as a result of a permanent reduction in operations by his or her employing unit; and
 6. The claimant is being trained for entry into a high-demand occupation.
- (b) A claimant ^{who is otherwise eligible for benefits and} whose benefit year ends in a week when benefits are payable in the state under ss. 108.141, 108.142, P.L. 110-252 and P.L. 110-449, as amended, or other similar federal or state program of additional benefits, ~~may be~~ ^{is} eligible for benefits under this subsection if the claimant is enrolled in the program specified in s. 108.04(16) within 52 weeks after the end of the claimant's benefit year established with respect to the separation that qualified the claimant for benefits under par. (a).
- (c) No benefits may be paid to any claimant pursuant to this subsection for weeks beginning more than 52 weeks after the first week the claimant received benefits under this subsection.
- (d) Any benefits paid to a claimant under this subsection may be reduced as provided in s. 108.05 (3).
- (e) The occupations that qualify as declining or high demand for purposes of this section shall be determined by the department.

Jeff, this was my email to Dan on the other assignments.

Jeff asked if other provisions in ch. 108 should be amended to take into account the payment of additional benefits for training paid after the end of the claimant's benefit year. I think we should amend 108.06(1), (2)(c), (2)(cm), (3) and (6) to include sub. (7) in the exception clauses.

Jeff asked if there is anything else we intend to override in 108.04(16) as it relates to the payment of additional benefits for training. The approved training provisions are required for federal conformity. The federal law requires that in any week in

approved training, states cannot deny compensation to an individual because of the application of any state laws related to A&A, active search for work, or refusal to accept work. The exceptions in 108.04(16) relate to the other provisions for A&A, work search, and refusing suitable work. For par. (d), the federal programs also require that states not deny benefits if the claimant quits unsuitable work to enter that training. All of those prohibitions against benefit reductions or disqualifications still should apply to someone in approved training with the additional benefits. It would not make sense to allow additional benefits for training but then deny the person for not being A&A while in the training. I do not see a need or requirement to override any other provisions, though I would make a point to ask Benefits staff to consider this when they review the draft. I think the reference in 108.06(7) back to 108.04(16) shows that we intend the same prohibitions against reductions & disqualifications to apply, but we may want to make that an explicit statement in 108.06(7).

Finally, Jeff asked if various cross-references should be changed to accommodate our current proposed changes. I think the cross-references for the quit exceptions being charged to the balancing account should mirror 108.04(7)(h). Therefore, 108.14(8n)(e) and 108.141(7) should be amended to include both 108.04(7)(s) & (t). Section 108.16(6m) does not need an amendment because it specifically references 108.04(7)(h) which will include all of the relevant quit exceptions. For 108.05(9) regarding rounding down, I do not think we need an amendment. The claimant's benefits in the most recent benefit year will be used for the extended benefits during approved training. That amount will be an amount already rounded down when calculating benefits under 108.06(1) for the regular benefits in the benefit year.

I will work on drafting some language for the extended benefits for training as we discussed today.
Tracey