

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

LRB-1975/P2dn  
JTK&MED:cjs:ph  
Shays

April 9, 2013

today's  
date

17,  
Representative Knodl:

27,

2, 3,

10,

This draft is the initial draft of your items 4, 8, 9, 11, 14, 15 (12-15, 12-27 and 12-28), 16, 19, 22, 24, 25, 28, and 34. We are working on other items at this time and will be reviewing them with the DWD legal staff. The other items will be added in successive redrafts when we have all the information we need to reduce them to draft format.

Regarding item II, which corresponds to proposal D12-30, we drafted this item based on the original proposal, not what was ultimately approved by the council, which is different. Also, proposal D12-30 only indicated changes to be made to s. 108.04 (8) (a), stats. I also, however, made corresponding changes to s. 108.04 (8) (c), stats., which addresses recalls by former employers. Also, I used an initial applicability provision for this item based on 1991 Wisconsin Act 89, which appears to be the last act to have substantively amended these provisions. Please review it carefully and let us know if you would like any changes to this item.

The 3 GPR positions for UI fraud detection are included in this version using figures provided by DWD, to become authorized on the day after the general effective date of the biennial budget bill. However, to ensure that the positions are authorized as intended, you may instead wish to seek inclusion of the funding for these positions in the biennial budget bill.

Finally, regarding the temporary help agency provisions, you may wish to consider any implementation issues with this item, such as how it would work for claimants who left employment with multiple employers at the same time.

← INSERT D-NOTE

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**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1975/P3ins2  
MED:.....

**INSERT D-NOTE**

Currently, s. 108.04 (7) (d), stats., which we have repealed as provided in DWD's original proposal D12-19, allows a claimant to claim benefits after quitting a job, without requalifying, if the claimant quit the job to accept a recall from a former employer for which the claimant worked in the past year. Section 108.04 (8) (c), stats., which the proposal did not propose to repeal or otherwise amend, requires a claimant to either accept a recall under similar circumstances or lose benefits until the claimant requalifies. You may therefore wish to instead consider amending s. 108.04 (7) (d), stats., to limit it so that a claimant who quits a job because the claimant is required to accept a recall in order to maintain eligibility under s. 108.04 (8) (c) is not required to requalify if the recalling employer then lays off the claimant. We have discussed this situation with DWD and DWD confirms that some claimants could face this situation as your instructions now stand. We will let you know if DWD provides further information. ✓



19.	.....	1,800.00	to	1,824.99	.....	72
20.	.....	1,825.00	to	1,849.99	.....	73
21.	.....	1,850.00	to	1,874.99	.....	74
22.	.....	1,875.00	to	1,899.99	.....	75
23.	.....	1,900.00	to	1,924.99	.....	76
24.	.....	1,925.00	to	1,949.99	.....	77
25.	.....	1,950.00	to	1,974.99	.....	78
26.	.....	1,975.00	to	1,999.99	.....	79
27.	.....	2,000.00	to	2,024.99	.....	80
28.	.....	2,025.00	to	2,049.99	.....	81
29.	.....	2,050.00	to	2,074.99	.....	82
30.	.....	2,075.00	to	2,099.99	.....	83
31.	.....	2,100.00	to	2,124.99	.....	84
32.	.....	2,125.00	to	2,149.99	.....	85
33.	.....	2,150.00	to	2,174.99	.....	86
34.	.....	2,175.00	to	2,199.99	.....	87
35.	.....	2,200.00	to	2,224.99	.....	88
36.	.....	2,225.00	to	2,249.99	.....	89
37.	.....	2,250.00	to	2,274.99	.....	90
38.	.....	2,275.00	to	2,299.99	.....	91
39.	.....	2,300.00	to	2,324.99	.....	92
40.	.....	2,325.00	to	2,349.99	.....	93
41.	.....	2,350.00	to	2,374.99	.....	94
42.	.....	2,375.00	to	2,399.99	.....	95



43.	.....	2,400.00	to	2,424.99	.....	96
44.	.....	2,425.00	to	2,449.99	.....	97
45.	.....	2,450.00	to	2,474.99	.....	98
46.	.....	2,475.00	to	2,499.99	.....	99
47.	.....	2,500.00	to	2,524.99	.....	100
48.	.....	2,525.00	to	2,549.99	.....	101
49.	.....	2,550.00	to	2,574.99	.....	102
50.	.....	2,575.00	to	2,599.99	.....	103
51.	.....	2,600.00	to	2,624.99	.....	104
52.	.....	2,625.00	to	2,649.99	.....	105
53.	.....	2,650.00	to	2,674.99	.....	106
54.	.....	2,675.00	to	2,699.99	.....	107
55.	.....	2,700.00	to	2,724.99	.....	108
56.	.....	2,725.00	to	2,749.99	.....	109
57.	.....	2,750.00	to	2,774.99	.....	110
58.	.....	2,775.00	to	2,799.99	.....	111
59.	.....	2,800.00	to	2,824.99	.....	112
60.	.....	2,825.00	to	2,849.99	.....	113
61.	.....	2,850.00	to	2,874.99	.....	114
62.	.....	2,875.00	to	2,899.99	.....	115
63.	.....	2,900.00	to	2,924.99	.....	116
64.	.....	2,925.00	to	2,949.99	.....	117
65.	.....	2,950.00	to	2,974.99	.....	118
66.	.....	2,975.00	to	2,999.99	.....	119



67.	.....	3,000.00	to	3,024.99	.....	120
68.	.....	3,025.00	to	3,049.99	.....	121
69.	.....	3,050.00	to	3,074.99	.....	122
70.	.....	3,075.00	to	3,099.99	.....	123
71.	.....	3,100.00	to	3,124.99	.....	124
72.	.....	3,125.00	to	3,149.99	.....	125
73.	.....	3,150.00	to	3,174.99	.....	126
74.	.....	3,175.00	to	3,199.99	.....	127
75.	.....	3,200.00	to	3,224.99	.....	128
76.	.....	3,225.00	to	3,249.99	.....	129
77.	.....	3,250.00	to	3,274.99	.....	130
78.	.....	3,275.00	to	3,299.99	.....	131
79.	.....	3,300.00	to	3,324.99	.....	132
80.	.....	3,325.00	to	3,349.99	.....	133
81.	.....	3,350.00	to	3,374.99	.....	134
82.	.....	3,375.00	to	3,399.99	.....	135
83.	.....	3,400.00	to	3,424.99	.....	136
84.	.....	3,425.00	to	3,449.99	.....	137
85.	.....	3,450.00	to	3,474.99	.....	138
86.	.....	3,475.00	to	3,499.99	.....	139
87.	.....	3,500.00	to	3,524.99	.....	140
88.	.....	3,525.00	to	3,549.99	.....	141
89.	.....	3,550.00	to	3,574.99	.....	142
90.	.....	3,575.00	to	3,599.99	.....	143



91.	.....	3,600.00	to	3,624.99	.....	144
92.	.....	3,625.00	to	3,649.99	.....	145
93.	.....	3,650.00	to	3,674.99	.....	146
94.	.....	3,675.00	to	3,699.99	.....	147
95.	.....	3,700.00	to	3,724.99	.....	148
96.	.....	3,725.00	to	3,749.99	.....	149
97.	.....	3,750.00	to	3,774.99	.....	150
98.	.....	3,775.00	to	3,799.99	.....	151
99.	.....	3,800.00	to	3,824.99	.....	152
100.	.....	3,825.00	to	3,849.99	.....	153
101.	.....	3,850.00	to	3,874.99	.....	154
102.	.....	3,875.00	to	3,899.99	.....	155
103.	.....	3,900.00	to	3,924.99	.....	156
104.	.....	3,925.00	to	3,949.99	.....	157
105.	.....	3,950.00	to	3,974.99	.....	158
106.	.....	3,975.00	to	3,999.99	.....	159
107.	.....	4,000.00	to	4,024.99	.....	160
108.	.....	4,025.00	to	4,049.99	.....	161
109.	.....	4,050.00	to	4,074.99	.....	162
110.	.....	4,075.00	to	4,099.99	.....	163
111.	.....	4,100.00	to	4,124.99	.....	164
112.	.....	4,125.00	to	4,149.99	.....	165
113.	.....	4,150.00	to	4,174.99	.....	166
114.	.....	4,175.00	to	4,199.99	.....	167



115.	.....	4,200.00	to	4,224.99	.....	168
116.	.....	4,225.00	to	4,249.99	.....	169
117.	.....	4,250.00	to	4,274.99	.....	170
118.	.....	4,275.00	to	4,299.99	.....	171
119.	.....	4,300.00	to	4,324.99	.....	172
120.	.....	4,325.00	to	4,349.99	.....	173
121.	.....	4,350.00	to	4,374.99	.....	174
122.	.....	4,375.00	to	4,399.99	.....	175
123.	.....	4,400.00	to	4,424.99	.....	176
124.	.....	4,425.00	to	4,449.99	.....	177
125.	.....	4,450.00	to	4,474.99	.....	178
126.	.....	4,475.00	to	4,499.99	.....	179
127.	.....	4,500.00	to	4,524.99	.....	180
128.	.....	4,525.00	to	4,549.99	.....	181
129.	.....	4,550.00	to	4,574.99	.....	182
130.	.....	4,575.00	to	4,599.99	.....	183
131.	.....	4,600.00	to	4,624.99	.....	184
132.	.....	4,625.00	to	4,649.99	.....	185
133.	.....	4,650.00	to	4,674.99	.....	186
134.	.....	4,675.00	to	4,699.99	.....	187
135.	.....	4,700.00	to	4,724.99	.....	188
136.	.....	4,725.00	to	4,749.99	.....	189
137.	.....	4,750.00	to	4,774.99	.....	190
138.	.....	4,775.00	to	4,799.99	.....	191



139.	.....	4,800.00	to	4,824.99	.....	192
140.	.....	4,825.00	to	4,849.99	.....	193
141.	.....	4,850.00	to	4,874.99	.....	194
142.	.....	4,875.00	to	4,899.99	.....	195
143.	.....	4,900.00	to	4,924.99	.....	196
144.	.....	4,925.00	to	4,949.99	.....	197
145.	.....	4,950.00	to	4,974.99	.....	198
146.	.....	4,975.00	to	4,999.99	.....	199
147.	.....	5,000.00	to	5,024.99	.....	200
148.	.....	5,025.00	to	5,049.99	.....	201
149.	.....	5,050.00	to	5,074.99	.....	202
150.	.....	5,075.00	to	5,099.99	.....	203
151.	.....	5,100.00	to	5,124.99	.....	204
152.	.....	5,125.00	to	5,149.99	.....	205
153.	.....	5,150.00	to	5,174.99	.....	206
154.	.....	5,175.00	to	5,199.99	.....	207
155.	.....	5,200.00	to	5,224.99	.....	208
156.	.....	5,225.00	to	5,249.99	.....	209
157.	.....	5,250.00	to	5,274.99	.....	210
158.	.....	5,275.00	to	5,299.99	.....	211
159.	.....	5,300.00	to	5,324.99	.....	212
160.	.....	5,325.00	to	5,349.99	.....	213
161.	.....	5,350.00	to	5,374.99	.....	214
162.	.....	5,375.00	to	5,399.99	.....	215



163.	.....	5,400.00	to	5,424.99	.....	216
164.	.....	5,425.00	to	5,449.99	.....	217
165.	.....	5,450.00	to	5,474.99	.....	218
166.	.....	5,475.00	to	5,499.99	.....	219
167.	.....	5,500.00	to	5,524.99	.....	220
168.	.....	5,525.00	to	5,549.99	.....	221
169.	.....	5,550.00	to	5,574.99	.....	222
170.	.....	5,575.00	to	5,599.99	.....	223
171.	.....	5,600.00	to	5,624.99	.....	224
172.	.....	5,625.00	to	5,649.99	.....	225
173.	.....	5,650.00	to	5,674.99	.....	226
174.	.....	5,675.00	to	5,699.99	.....	227
175.	.....	5,700.00	to	5,724.99	.....	228
176.	.....	5,725.00	to	5,749.99	.....	229
177.	.....	5,750.00	to	5,774.99	.....	230
178.	.....	5,775.00	to	5,799.99	.....	231
179.	.....	5,800.00	to	5,824.99	.....	232
180.	.....	5,825.00	to	5,849.99	.....	233
181.	.....	5,850.00	to	5,874.99	.....	234
182.	.....	5,875.00	to	5,899.99	.....	235
183.	.....	5,900.00	to	5,924.99	.....	236
184.	.....	5,925.00	to	5,949.99	.....	237
185.	.....	5,950.00	to	5,974.99	.....	238
186.	.....	5,975.00	to	5,999.99	.....	239



187.	.....	6,000.00	to	6,024.99	.....	240
188.	.....	6,025.00	to	6,049.99	.....	241
189.	.....	6,050.00	to	6,074.99	.....	242
190.	.....	6,075.00	to	6,099.99	.....	243
191.	.....	6,100.00	to	6,124.99	.....	244
192.	.....	6,125.00	to	6,149.99	.....	245
193.	.....	6,150.00	to	6,174.99	.....	246
194.	.....	6,175.00	to	6,199.99	.....	247
195.	.....	6,200.00	to	6,224.99	.....	248
196.	.....	6,225.00	to	6,249.99	.....	249
197.	.....	6,250.00	to	6,274.99	.....	250
198.	.....	6,275.00	to	6,299.99	.....	251
199.	.....	6,300.00	to	6,324.99	.....	252
200.	.....	6,325.00	to	6,349.99	.....	253
201.	.....	6,350.00	to	6,374.99	.....	254
202.	.....	6,375.00	to	6,399.99	.....	255
203.	.....	6,400.00	to	6,424.99	.....	256
204.	.....	6,425.00	to	6,449.99	.....	257
205.	.....	6,450.00	to	6,474.99	.....	258
206.	.....	6,475.00	to	6,499.99	.....	259
207.	.....	6,500.00	to	6,524.99	.....	260
208.	.....	6,525.00	to	6,549.99	.....	261
209.	.....	6,550.00	to	6,574.99	.....	262
210.	.....	6,575.00	to	6,599.99	.....	263



211.	.....	6,600.00	to	6,624.99	.....	264
212.	.....	6,625.00	to	6,649.99	.....	265
213.	.....	6,650.00	to	6,674.99	.....	266
214.	.....	6,675.00	to	6,699.99	.....	267
215.	.....	6,700.00	to	6,724.99	.....	268
216.	.....	6,725.00	to	6,749.99	.....	269
217.	.....	6,750.00	to	6,774.99	.....	270
218.	.....	6,775.00	to	6,799.99	.....	271
219.	.....	6,800.00	to	6,824.99	.....	272
220.	.....	6,825.00	to	6,849.99	.....	273
221.	.....	6,850.00	to	6,874.99	.....	274
222.	.....	6,875.00	to	6,899.99	.....	275
223.	.....	6,900.00	to	6,924.99	.....	276
224.	.....	6,925.00	to	6,949.99	.....	277
225.	.....	6,950.00	to	6,974.99	.....	278
226.	.....	6,975.00	to	6,999.99	.....	279
227.	.....	7,000.00	to	7,024.99	.....	280
228.	.....	7,025.00	to	7,049.99	.....	281
229.	.....	7,050.00	to	7,074.99	.....	282
230.	.....	7,075.00	to	7,099.99	.....	283
231.	.....	7,100.00	to	7,124.99	.....	284
232.	.....	7,125.00	to	7,149.99	.....	285
233.	.....	7,150.00	to	7,174.99	.....	286
234.	.....	7,175.00	to	7,199.99	.....	287



235.	.....	7,200.00	to	7,224.99	.....	288
236.	.....	7,225.00	to	7,249.99	.....	289
237.	.....	7,250.00	to	7,274.99	.....	290
238.	.....	7,275.00	to	7,299.99	.....	291
239.	.....	7,300.00	to	7,324.99	.....	292
240.	.....	7,325.00	to	7,349.99	.....	293
241.	.....	7,350.00	to	7,374.99	.....	294
242.	.....	7,375.00	to	7,399.99	.....	295
243.	.....	7,400.00	to	7,424.99	.....	296
244.	.....	7,425.00	to	7,449.99	.....	297
245.	.....	7,450.00	to	7,474.99	.....	298
246.	.....	7,475.00	to	7,499.99	.....	299
247.	.....	7,500.00	to	7,524.99	.....	300
248.	.....	7,525.00	to	7,549.99	.....	301
249.	.....	7,550.00	to	7,574.99	.....	302
250.	.....	7,575.00	to	7,599.99	.....	303
251.	.....	7,600.00	to	7,624.99	.....	304
252.	.....	7,625.00	to	7,649.99	.....	305
253.	.....	7,650.00	to	7,674.99	.....	306
254.	.....	7,675.00	to	7,699.99	.....	307
255.	.....	7,700.00	to	7,724.99	.....	308
256.	.....	7,725.00	to	7,749.99	.....	309
257.	.....	7,750.00	to	7,774.99	.....	310
258.	.....	7,775.00	to	7,799.99	.....	311



259.	.....	7,800.00	to	7,824.99	.....	312
260.	.....	7,825.00	to	7,849.99	.....	313
261.	.....	7,850.00	to	7,874.99	.....	314
262.	.....	7,875.00	to	7,899.99	.....	315
263.	.....	7,900.00	to	7,924.99	.....	316
264.	.....	7,925.00	to	7,949.99	.....	317
265.	.....	7,950.00	to	7,974.99	.....	318
266.	.....	7,975.00	to	7,999.99	.....	319
267.	.....	8,000.00	to	8,024.99	.....	320
268.	.....	8,025.00	to	8,049.99	.....	321
269.	.....	8,050.00	to	8,074.99	.....	322
270.	.....	8,075.00	to	8,099.99	.....	323
271.	.....	8,100.00	to	8,124.99	.....	324
272.	.....	8,125.00	to	8,149.99	.....	325
273.	.....	8,150.00	to	8,174.99	.....	326
274.	.....	8,175.00	to	8,199.99	.....	327
275.	.....	8,200.00	to	8,224.99	.....	328
276.	.....	8,225.00	to	8,249.99	.....	329
277.	.....	8,250.00	to	8,274.99	.....	330
278.	.....	8,275.00	to	8,299.99	.....	331
279.	.....	8,300.00	to	8,324.99	.....	332
280.	.....	8,325.00	to	8,349.99	.....	333
281.	.....	8,350.00	to	8,374.99	.....	334
282.	.....	8,375.00	to	8,399.99	.....	335



283.	.....	8,400.00	to	8,424.99	.....	336
284.	.....	8,425.00	to	8,449.99	.....	337
285.	.....	8,450.00	to	8,474.99	.....	338
286.	.....	8,475.00	to	8,499.99	.....	339
287.	.....	8,500.00	to	8,524.99	.....	340
288.	.....	8,525.00	to	8,549.99	.....	341
289.	.....	8,550.00	to	8,574.99	.....	342
290.	.....	8,575.00	to	8,599.99	.....	343
291.	.....	8,600.00	to	8,624.99	.....	344
292.	.....	8,625.00	to	8,649.99	.....	345
293.	.....	8,650.00	to	8,674.99	.....	346
294.	.....	8,675.00	to	8,699.99	.....	347
295.	.....	8,700.00	to	8,724.99	.....	348
296.	.....	8,725.00	to	8,749.99	.....	349
297.	.....	8,750.00	to	8,774.99	.....	350
298.	.....	8,775.00	to	8,799.99	.....	351
299.	.....	8,800.00	to	8,824.99	.....	352
300.	.....	8,825.00	to	8,849.99	.....	353
301.	.....	8,850.00	to	8,874.99	.....	354
302.	.....	8,875.00	to	8,899.99	.....	355
303.	.....	8,900.00	to	8,924.99	.....	356
304.	.....	8,925.00	to	8,949.99	.....	357
305.	.....	8,950.00	to	8,974.99	.....	358
306.	.....	8,975.00	to	8,999.99	.....	359



307.	.....	9,000.00	to	9,024.99	.....	360
308.	.....	9,025.00	to	9,049.99	.....	361
309.	.....	9,050.00	to	9,074.99	.....	362
310.	.....	9,075.00	to	9,099.99	.....	363
311.	.....	9,100.00	to	9,124.99	.....	364
312.	.....	9,125.00	to	9,149.99	.....	365
313.	.....	9,150.00	to	9,174.99	.....	366
314.	.....	9,175.00	to	9,199.99	.....	367
315.	.....	9,200.00	to	9,224.99	.....	368
316.	.....	9,225.00	to	9,249.99	.....	369
317.	.....	9,250.00		and over	.....	370

✓

end  
INS X

ASSEMBLY BILL 757

*FW = 3A*

1 and (g), 108.05 (1) (q), 108.05 (3) (d), 108.09 (4o), 108.17 (2) (b), 108.17 (2c) (f),  
2 108.17 (7) and 108.22 (1) (af) of the statutes; **relating to:** various changes in  
3 unemployment insurance law and making an appropriation.

**Analysis by the Legislative Reference Bureau**

This bill makes various changes in the unemployment insurance (UI) law. Significant provisions include:

**\$54 BENEFIT RATE CHANGES**

*\$1,350*

Currently, weekly unemployment insurance benefit rates for total unemployment range from ~~\$53~~ for an employee who earns wages (or certain other amounts treated as wages) of at least ~~\$1,325~~ during at least one quarter of the employee's base period (period preceding a claim during which benefit rights accrue) to ~~\$365~~ for an employee who earns wages (or certain other amounts treated as wages) of at least ~~\$8,875~~ during any such quarter. This bill adjusts weekly benefit rates for weeks of unemployment beginning on or after January ~~1, 2009~~, to rates ranging from ~~\$54~~ for an employee who earns wages (or certain other amounts treated as wages) of at least ~~\$1,325~~ during at least one quarter of the employee's base period to ~~\$363~~ for an employee who earns wages (or certain other amounts treated as wages) of at least ~~\$9,075~~ during any such quarter.

*\$363*

*\$55*

*\$9,075*

*\$9,250*

*5,2014*

*\$4,370*

**OTHER BENEFIT CHANGES**

*\$1,375*

**Qualifying wages**

Currently, an employee is not eligible to begin receiving UI benefits unless he or she receives or is treated as receiving wages during the employee's base period (period preceding a claim during which benefit rights accrue) equal to at least 30 times the employee's weekly benefit rate, including wages equal to at least four times that rate during the quarters in the employee's base period other than the one in which the employee is paid or treated as having been paid his or her highest wages.

This bill requires instead that an employee receive or be treated as receiving wages equal to at least 35 times the employee's weekly benefit rate, including wages equal to at least four times that rate during the quarters in the employee's base period other than the one in which the employee is paid or is treated as having been paid his or her highest wages, in order to become eligible to begin receiving UI benefits.

**Concealment**

Currently, if a claimant conceals any material fact relating to his or her eligibility for benefits or conceals any wages earned in or paid or payable for a given week, the claimant must forfeit not less than 25 percent nor more than 400 percent of the claimant's weekly benefit rate for the week for which the claim is made for an act of concealment that results in no overpayment or an overpayment of less than 50 percent of the claimant's weekly benefit rate; and not less than 100 percent nor more than 400 percent of the claimant's weekly benefit rate for the week in which the claim

*...during at least one quarter of the employee's base period*

*The bill does not affect the benefit rate of any employee who earns wages (or certain other amounts treated as wages) of at least*

*\$1,375*

*\$9,250*

*employee who earns wages (or certain other amounts treated as wages) of less than \$9,100*

JWS 35-9.11 ✓

ASSEMBLY BILL 757

SECTION # . RP: 108.05 (1)(n) to (p)

④

X

1 SECTION 30. 108.05 (1) (p) (intro.) of the statutes is amended to read:

2 108.05 (1) (p) (intro.) Each eligible employee shall be paid benefits for each  
3 week of total unemployment that commences on or after January 7, 2007, and before  
4 January 4, 2009, at the weekly benefit rate specified in this paragraph. Unless sub.  
5 (1m) applies, the weekly benefit rate shall equal 4 percent of the employee's base  
6 period wages that were paid during that quarter of the employee's base period in  
7 which the employee was paid the highest total wages, rounded down to the nearest  
8 whole dollar, except that, if that amount is less than the minimum amount shown  
9 in the following schedule, no benefits are payable to the employee and, if that amount  
10 is more than the maximum amount shown in the following schedule, the employee's  
11 weekly benefit rate shall be the maximum amount shown in the following schedule  
12 and except that, if the employee's benefits are exhausted during any week under s.  
13 108.06 (1), the employee shall be paid the remaining amount of benefits payable to  
14 the employee in lieu of the amount shown in the following schedule: [See Figure  
15 108.05 (1) (p) following] (intro.) (intro.) amended and before January 5, 2015

F. T. Component

16 SECTION 31. 108.05 (1) (q) of the statutes is created to read:

17 108.05 (1) (q) Each eligible employee shall be paid benefits for each week of  
18 total unemployment that commences on or after January 4, 2009, at the weekly  
19 benefit rate specified in this paragraph. Unless sub. (1m) applies, the weekly benefit  
20 rate shall equal 4 percent of the employee's base period wages that were paid during  
21 that quarter of the employee's base period in which the employee was paid the  
22 highest total wages, rounded down to the nearest whole dollar, except that, if that  
23 amount is less than the minimum amount shown in the following schedule, no  
24 benefits are payable to the employee and, if that amount is more than the maximum  
25 amount shown in the following schedule, the employee's weekly benefit rate shall be

X

↑ LPS: Proof this section against Folio

INS 31-9:2

INS  
35-9:  
2A

1 the maximum amount shown in the following schedule and except that, if the  
 2 employee's benefits are exhausted during any week under s. 108.06 (1), the employee  
 3 shall be paid the remaining amount of benefits payable to the employee in lieu of the  
 4 amount shown in the following schedule: [See Figure 108.05 (1) (q) following]

Figure 108.05 (1) (q):

Line	Highest Quarterly Wages Paid	Weekly Benefit Rate
1.	Under \$1,350.00	\$ 0
2.	1,350.00 to 1,374.99	54
3.	1,375.00 to 1,399.99	55
4.	1,400.00 to 1,424.99	56
5.	1,425.00 to 1,449.99	57
6.	1,450.00 to 1,474.99	58
7.	1,475.00 to 1,499.99	59
8.	1,500.00 to 1,524.99	60
9.	1,525.00 to 1,549.99	61
10.	1,550.00 to 1,574.99	62
11.	1,575.00 to 1,599.99	63
12.	1,600.00 to 1,624.99	64
13.	1,625.00 to 1,649.99	65
14.	1,650.00 to 1,674.99	66
15.	1,675.00 to 1,699.99	67
16.	1,700.00 to 1,724.99	68

35-17:2A

⑨ SLEPWA# CR, 108.05 (1) (r)



⑨ 108.05 (1) (r)

Each eligible employee shall be paid benefits for each week of total unemployment that commences on or after January 4, 2009, at the weekly benefit rate specified in this paragraph. Unless sub. (1m) applies, the weekly benefit rate shall equal 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 is less than the minimum amount shown in the following schedule, no benefits are payable to the employee and, if that amount is more than the maximum amount shown in the following schedule, the employee's weekly benefit rate shall be the maximum amount shown in the following schedule and except that, 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 in lieu of the amount shown in the following schedule: [See Figure 108.05 (1) following]

⑨ following] See PDF for table. ⑨

January 5, 2014



LPS: the "base" text here is that of 108.05(1)(g)

INS 9A:

***Standard affidavit form***

 This bill directs DWD to prescribe a standard affidavit form that may be used by parties to UI administrative appeals. Use of the form by a party does not eliminate the right of an opposing party to cross examine the affiant concerning the facts asserted in the affidavit.

✓  
INS 39-14B:

^  
**SECTION 1.** 108.14 (24) of the statutes is created to read:

 108.14 (24) The department shall prescribe a standard affidavit form that may be used by parties to appeals under ss. 108.09<sup>✓</sup> and 108.10<sup>✓</sup>. The form shall be sufficient to qualify as admissible evidence in a hearing under this chapter if the authentication is sufficient and the information set forth by the affiant is admissible, but its use by a party does not eliminate the right of an opposing party to cross examine the affiant concerning the facts asserted in the affidavit.

INSERT XXX

**Termination of work; general requirements to ~~qualify~~ <sup>requalify</sup> for benefits**

Currently, unless an exception applies, if an employee voluntarily terminates his or her work with an employer, the employee is generally ineligible to receive benefits until the following ~~qualification~~ requirements are satisfied: 1) four weeks have elapsed since the end of the week in which the termination occurs and 2) 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.

The bill modifies the first ~~requalification~~ requirement so that an employee who voluntarily terminates his or her work with an employer is generally ineligible to receive benefits until the employee earns wages after the week in which the termination occurs equal to at least *ten* times the employee's weekly benefit rate in employment covered by the unemployment insurance law of any state or the federal government. The bill eliminates the second ~~requalification~~ requirement that four weeks must have elapsed before the terminating employee may again become eligible for benefits.

**Termination of work; exemptions from ~~qualification~~ <sup>requalification</sup> requirements**

Under current law, an employee who voluntarily terminates his or her work with an employer is exempt from the ~~qualification~~ requirements certain circumstances, including all of the following:

1. The employee was hired to work a particular shift and terminated his or her work because the employer required the employee to transfer his or her working hours to a shift occurring at a time that would result in a lack of child care for the employee's minor children.
2. The employee terminated his or her work to accept a recall to work for a former employer within 52 weeks after having last worked for that employer.
3. The employee maintained a temporary residence near the terminated work; the employee maintained a permanent residence in another locality; and the employee terminated the work and returned to his or her permanent residence because the work available to the employee had been reduced to less than 20 hours per week in at least two consecutive weeks.
4. The employee left or lost his or her work because the employee reached the employer's compulsory retirement age.
5. The employee terminated part-time work because of a loss of other, full-time employment, and the loss of the full-time employment made it economically unfeasible for the employee to continue the part-time work.
6. The employee terminated his or her work with a labor organization if the termination caused the employee to lose seniority rights granted under a collective bargaining agreement and resulted in the loss of the employee's employment with the employer, which is a party to that collective bargaining agreement.
7. The employee terminated his or her work in a position serving as a part-time elected or appointed member of a governmental body or representative of employees; the employee was engaged in work for an employer other than the employer in which

5

the employee served as the member or representative; and the employee was paid wages in the terminated work constituting not more than five percent of the employee's base period wages for purposes of entitlement for benefits.

✓ 8. The employee terminated his or her work in one of two or more concurrently held positions, at least one of which was full-time work, if the employee terminated his or her work before receiving notice of termination from a full-time work position.

✓ 9. The employee, while serving as a member of the U.S. armed forces, was engaged concurrently in other work and terminated that work as a result of the employee's honorable discharge or discharge under honorable conditions from active duty as a member of the U.S. armed forces for a reason that would qualify the employee to receive unemployment compensation under federal law.

✓ 10. The employee owns or controls an ownership interest in a family corporation and the employee's employment was terminated because of an involuntary cessation of the business of the corporation under certain specified conditions.

The bill eliminates these ten exemptions from the ~~qualification~~ requirements for employees who voluntarily terminate employment.

✓ Under current law, subject to certain limitations, an employee who voluntarily terminates his or her work with an employer is exempt from the ~~qualification~~ requirements if: 1) the employee accepted work that was not suitable work under the UI law or work that the employee could have refused for specified reasons related to protecting labor standards and 2) the employee terminated the work within ten weeks after starting the work. Under the bill, this exemption only applies if the employee terminated that work within *30 days* after starting the work.

✓ Under current law, an employee who voluntarily terminates his or her work with an employer is exempt from the ~~qualification~~ requirements if the 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. The bill narrows this exemption so that it only applies if the employee's spouse is an active duty member of the U.S. Armed Forces who was required by the U.S. Armed Forces to relocate.

Under current law, an employee who voluntarily terminates his or her work with an employer is exempt from the ~~qualification~~ requirements if the employee terminated work to accept other covered employment and earned wages in the subsequent employment equal to at least four times the employee's weekly benefit rate if the work: 1) offered average weekly wages at least equal to the average weekly wages that the employee earned in the terminated work; 2) offered the same or a greater number of hours of work than those performed in the work terminated; 3) offered the opportunity for significantly longer term work; or 4) offered the opportunity to accept a position for which the duties were primarily discharged at a location significantly closer to the employee than the the terminated work. An employee who voluntarily terminates his or her work with an employer is also exempt from the ~~qualification~~ requirements if the employee, while claiming benefits for partial unemployment, terminated work to accept other covered employment

requalification

that offered an average weekly wage greater than the average weekly wage earned in the work terminated.

The bill consolidates these two exemptions ~~from the qualification requirements~~ into one exemption, which applies only if the employee terminated work to accept covered employment that: 1) offered an average weekly wage greater than the average weekly wage earned in the work terminated; 2) offered a greater number of hours of work than those performed in the work terminated; or 3) offered the opportunity for significantly longer term work. The exemption as consolidated applies regardless of whether the employee is claiming ~~partial~~ benefits <sup>for partial unemployment</sup>.

The bill does not affect any other exemptions from the ~~qualification~~ <sup>requalification</sup> requirements.

INSERT YYY

or whether the employee <sup>earns</sup> earns a certain amount of wages in the subsequent work

**UI handbook for employers**

The bill requires DWD to create and keep up-to-date a handbook for employers for the purpose of informing employers who are subject to the UI law about the provisions and requirements of the UI law. The handbook must include all of the following: 1) information about the function and purpose of UI; 2) a description of the rights and responsibilities of employers under the UI law, including the rights and responsibilities associated with hearings to establish eligibility for benefits under ~~this chapter~~; 3) a description of the circumstances under which claimants are eligible and ineligible for UI benefits under the UI law; and 4) disclaimers explaining that the contents of the handbook may not be relied upon as legally enforceable and do not guarantee a particular result for a decision on a UI matter. DWD must make the handbook available on the Internet and must, for a fee, distribute printed copies of the handbook to employers who so request.

the law

that adherence to the contents does

for the use of attorneys employed by DWD

**Electronic database of decisions**

The bill requires DWD to maintain a searchable, electronic database of significant decisions made by appeal tribunals <sup>paren.</sup> commonly known as administrative law judges on UI matters.

INSERT ~~11-19~~ 11-19

and by the <sup>paren.</sup> and industry review Commission

1 SECTION 1. 20.445 (1) (gm) of the statutes is created to read:

2 20.445 (1) (gm) Unemployment insurance handbook ~~printing costs~~. All <sup>paren.</sup> of the unemployment insurance handbook  
3 moneys received under s. 108.14 (23) (d) for the costs of printing and distribution, to  
4 pay for those costs.

Insert 30-20

5 SECTION 2. 108.02 (15m) (intro.) of the statutes is amended to read:

1            108.02 (15m) FAMILY CORPORATION. (intro.) ~~Except as provided in s. 108.04 (7)~~  
 2            ~~(r),~~ "family Family corporation" means:

History: 1971 c. 53; 1971 c. 213 s. 5; 1973 c. 247; 1975 c. 223, 343; 1975 c. 373 s. 40; 1977 c. 29, 133; 1979 c. 52, 221; 1981 c. 36, 353; 1983 a. 8 ss. 4 to 12, 54; 1983 a. 168; 1983 a. 189 ss. 158 to 161, 329 (25), (28); 1983 a. 384, 477, 538; 1985 a. 17, 29, 332; 1987 a. 38 ss. 6 to 22, 134; 1987 a. 255; 1989 a. 31; 1989 a. 56 ss. 151, 259; 1989 a. 77, 303; 1991 a. 89; 1993 a. 112, 213, 373, 492; 1995 a. 27 ss. 3777, 9130 (4); 1995 a. 118, 225; 1997 a. 3, 27, 39; 1999 a. 15, 82, 83; 2001 a. 35, 103, 105; 2003 a. 197; 2005 a. 25, 86, 149, 441; 2007 a. 20 s. 9121 (6) (a); 2007 a. 59; 2009 a. 180, 287; 2011 a. 32, 123.

**INSERT 33-10**

3            **SECTION 3.** 108.04 (7) (a) of the statutes is amended to read:

4            108.04 (7) (a) If an employee terminates work with an employing unit, the  
 5            employee is ineligible to receive benefits until ~~4 weeks have elapsed since the end~~  
 6            ~~of the week in which the termination occurs and~~ the employee earns wages after the  
 7            week in which the termination occurs equal to at least ~~4~~ 10 times the employee's  
 8            weekly benefit rate under s. 108.05 (1) in employment or other work covered by the  
 9            ✓ unemployment insurance law of any state or the federal government. For purposes  
 10           of requalification, the employee's weekly benefit rate shall be that rate which would  
 11           have been paid had the termination not occurred. This paragraph does not preclude  
 12           an employee from establishing a benefit year by using the base period wages paid by  
 13           the employer from which the employee voluntarily terminated, if the employee is  
 14           qualified to establish a benefit year under s. 108.06 (2) (a).

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 318; 1979 a. 72, 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 31, 107, 116; 1987 a. 225, 287, 303; 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; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

15           **SECTION 4.** 108.04 (7) (cm), (d), (g), (j), (k), (L), (m), (n), (o), (q) and (r) of the  
 16           statutes are repealed.

17           **SECTION 5.** 108.04 (7) (e) of the statutes is amended to read:

18           108.04 (7) (e) Paragraph (a) does not apply if the department determines that  
 19           the employee accepted work which the employee could have failed to accept with good  
 20           cause under sub. (8) and terminated such work with the same good cause and within  
 21           the first ~~10 weeks~~ 30 calendar days after starting the work, or that the employee

1 accepted work which the employee could have refused under sub. (9) and terminated  
 2 such work within the first ~~10 weeks~~ 30 calendar days after starting the work. For  
 3 purposes of this paragraph, an employee has the same good cause for voluntarily  
 4 terminating work if the employee could have failed to accept the work under sub. (8)  
 5 (d) when it was offered, regardless of the reason articulated by the employee for the  
 6 termination.

**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; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

7 **SECTION 6.** 108.04 (7) (h) of the statutes is amended to read:

8 108.04 (7) (h) The department shall charge to the fund's balancing account  
 9 benefits paid to an employee that are otherwise chargeable to the account of an  
 10 employer that is subject to the contribution requirements of ss. 108.17 and 108.18  
 11 if the employee voluntarily terminates employment with that employer and par. (a),  
 12 (c), (d), (e), (k), (L), (o), (p), (q), (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; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

13 **SECTION 7.** 108.04 (7) (p) of the statutes is renumbered 108.04 (7) (p) (intro.)

14 and amended to read:

15 108.04 (7) (p) (intro.) Paragraph (a) does not apply if the department  
 16 determines that an employee, ~~while claiming benefits for partial unemployment,~~  
 17 terminated work to accept employment or other work covered by the unemployment  
 18 insurance law of any state or the federal government, if any of the following applies  
 19 to that employment or work:

20 1. It offered an average weekly wage greater than the average weekly wage  
 21 earned in the work terminated.

**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; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

22 **SECTION 8.** 108.04 (7) (p) 2. and 3. of the statutes are created to read:

1 108.04 (7) (p) 2. It offered a greater number of hours of work than those  
2 performed in the work terminated. ✓

3 3. It offered the opportunity for significantly longer term work. ✓

4 SECTION 9. 108.04 (7) (t) of the statutes is renumbered 108.04 (7) (t) (intro.) and  
5 amended to read: X

6 108.04 (7) (t) (intro.) Paragraph (a) does not apply if the department  
7 determines that ~~the~~ all of the following apply to an employee:

8 ✓ 1. The employee's spouse changed his or her place of employment is a member  
9 of the U.S. armed forces on active duty.

10 2. The employee's spouse was required by the U.S. armed forces to relocate to  
11 a place to which it is impractical for the employee to commute and the.

12 3. The employee terminated his or her work to accompany the spouse to that  
13 place.

✓ 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; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

**INSERT 37-18**

✓ 14 SECTION 10. 108.14 (8n) (e) of the statutes is amended to read:

15 ✓ 108.14 (8n) (e) The department shall charge this state's share of any benefits  
16 paid under this subsection to the account of each employer by which the employee  
17 claiming benefits was employed in the applicable base period, in proportion to the  
18 total amount of wages he or she earned from each employer in the base period, except  
19 that if s. 108.04 (1) (f), (5), (7) (a), (c), ~~(d)~~, (e), ~~(k)~~, ~~(L)~~, ~~(o)~~, (p), ~~(q)~~, (s), or (t), (7m) or (8)  
20 (a) or 108.07 (3), (3r), (5) (b) or (8) would have applied to employment by such an  
21 employer who is subject to the contribution requirements of ss. 108.17 and 108.18,  
22 the department shall charge the share of benefits based on employment with that

1 employer to the fund's balancing account, or, if s. 108.04 (1) (f) or (5) or 108.07 (3)  
 2 would have applied to an employer that is not subject to the contribution  
 3 requirements of ss. 108.17 and 108.18, the department shall charge the share of  
 4 benefits based on that employment in accordance with s. 108.07 (5) (a) and (b). The  
 5 department shall also charge the fund's balancing account with any other state's  
 6 share of such benefits pending reimbursement by that state.

**History:** 1971 c. 53; 1973 c. 90 s. 559; 1973 c. 247; 1975 c. 348; 1977 c. 29, 133; 1977 c. 196 s. 131; 1977 c. 272 s. 98; 1979 c. 34 s. 2102 (25) (a); 1979 c. 110 s. 60 (11); 1979 c. 221; 1981 c. 36 ss. 18, 45; 1983 a. 8 s. 54; 1983 a. 189 s. 329 (28); 1983 a. 388; 1985 a. 17; 1985 a. 29 ss. 1664 to 1668, 3202 (29); 1985 a. 332; 1987 a. 38, 255; 1989 a. 77, 139, 303, 359; 1991 a. 89; 1993 a. 373, 490, 492; 1995 a. 27, 118, 225; 1997 a. 39; 1999 a. 83; 2001 a. 35, 105; 2003 a. 197; 2009 a. 11; 2011 a. 234.

**SECTION 11.** 108.14 (22) of the statutes is created to read:

8 108.14 (22) The department shall maintain a searchable, electronic database  
 9 of significant decisions made by appeal tribunals <sup>and the commission</sup> on matters under this chapter. <sup>for the use of attorneys employed by the department</sup>

**SECTION 12.** 108.14 (23) of the statutes is created to read:

11 108.14 (23) (a) The department shall create and keep up-to-date a handbook  
 12 for the purpose of informing employers <sup>that</sup> ~~who~~ are subject to this chapter about the  
 13 provisions and requirements of this chapter.

14 (b) The department shall include all of the following in the handbook:

- 15 1. Information about the function and purpose of unemployment insurance  
 16 under this chapter.
- 17 2. A description of the rights and responsibilities of employers under this  
 18 chapter, including the rights and responsibilities associated with hearings to  
 19 establish eligibility for benefits under this chapter.
- 20 3. A description of the circumstances under which claimants are eligible and  
 21 ineligible for benefits under this chapter.
- 22 4. Disclaimers explaining that the contents of the handbook may not be relied  
 23 upon as legally enforceable and <sup>that adherence to the contents does</sup> not guarantee a particular result for a decision  
 24 under this chapter.

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39-14A 7

X

1 (c) The department shall make the handbook available on the Internet.

2 (d) The department shall distribute printed copies of the handbook to persons  
3 who request a copy and may charge a fee as provided in s. 20.908<sup>✓</sup> for the costs of  
4 printing and distribution.

5 **SECTION 13.** 108.141 (7) (a) of the statutes is amended to read:

6 108.141 (7) (a) The department shall charge the state's share of each week of  
7 extended benefits to each employer's account in proportion to the employer's share  
8 of the total wages of the employee receiving the benefits in the employee's base  
9 period, except that if the employer is subject to the contribution requirements of ss.  
10 108.17 and 108.18 the department shall charge the share of extended benefits to  
11 which s. 108.04 (1) (f), (5), (7) (a), (c), ~~(d)~~, (e), ~~(k)~~, ~~(L)~~, ~~(o)~~, (p), ~~(q)~~, (s), or (t), (7m) or (8)  
12 (a) or 108.07 (3), (3r), (5) (b) or (8) applies to the fund's balancing account.

**History:** 1971 c. 53; 1973 c. 247; 1975 c. 1, 343; 1977 c. 29, 133, 418; 1979 c. 52; 1981 c. 36 ss. 19 to 32, 45; 1981 c. 315, 390; 1983 a. 8 ss. 28 to 33, 53, 55 (3), (14) and (15) and 56; 1983 a. 27 ss. 1400g and 1807m; 1983 a. 189 ss. 162, 329 (28); 1985 a. 17; 1987 a. 38; 1991 a. 39, 89, 189, 269; 1993 a. 184, 373, 492; 1995 a. 27 ss. 3780, 9130 (4); 1995 a. 118, 225; 1997 a. 3, 35, 39; 2001 a. 35; 2009 a. 1, 11; 2011 a. 42.

**INSERT 91-15**

13 **SECTION 14. Nonstatutory provisions.**

14 ~~†~~  
15 (1) The department of workforce development shall ensure that the searchable,  
16 electronic database required to be maintained under section 108.14 (22) of the  
17 statutes, as created by this act, is available for use no later than one year after the  
18 effective date of this subsection.

19 ~~†~~  
20 (2) The department of workforce development shall make the handbook  
required to be created under section 108.14 (23) of the statutes, as created by this act,  
available no later than one year after the effective date of this subsection.

**INSERT 93-20**

*and  
amendment*

1       # (3) The treatment of sections 108.02 (15m) (intro.), 108.04 (7) (a), (cm), (d), (e),  
 2       (h), (g), (j), (k), (L), (m), (n), (o), (q), (r), and (t), 108.14 (8n) (e), and 108.141 (7) (a) of  
 3       the statutes, the renumbering of section 108.04 (7) (p) of the statutes, and the  
 4       creation of 108.04 (7) (p) 2. and 3. of the statutes first apply with respect to  
 5       terminations of employment occurring after the effective date of this subsection.

*section*

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1975/P3ins2  
JTK.....

✓  
INS 31-20:

*Acts*  
*and Δ...Δ (this act)*  
SECTION 1. 108.04 (2) (a) 2. of the statutes, as affected by 2013 Wisconsin Act  
2013 Wisconsin Act... (Assembly Bill 15), is repealed and recreated to read: *10m*

108.04 (2) (a) 2. Except as provided in s. 108.062 (10), as of that week, the individual has registered for work as directed by the department; and

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; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

INS 32-6:

*Acts (intro.) and Δ...Δ (this act)*  
SECTION 2. 108.04 (2) (a) 3. of the statutes, as affected by 2013 Wisconsin Act  
2013 Wisconsin Act... (Assembly Bill 15), is repealed and recreated to read:

*10m*  
108.04 (2) (a) 3. (intro.) The individual conducts a reasonable search for suitable work during that week, unless the search requirement is waived under par. (b) or s. 108.062 (10m). 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. This subdivision does not apply to an individual if the department determines that the individual 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 individual has a reasonable expectation of reemployment by an employer, the department shall request the employer to verify the individual's employment status and shall also consider other factors, including:

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; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

INS 35-9:2A

Act 2013 Wisconsin Act... (Assembly Bill 15) is repealed and recreated to read:

SECTION 3. 108.05 (1) (q) (intro.) of the statutes, as affected by 2013 Wisconsin Act... (this act)

108.05 (1) (q) (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 4, 2009, and before January 5, 2014, at the weekly benefit rate specified in this paragraph. Unless sub. (1m) applies, the weekly benefit rate shall equal 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 is less than the minimum amount shown in the following schedule, no benefits are payable to the employee and, if that amount is more than the maximum amount shown in the following schedule, the employee's weekly benefit rate shall be the maximum amount shown in the following schedule and except that, 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 in lieu of the amount shown in the following schedule: [See Figure 108.05 (1) (q) following]

**History:** 1971 c. 53; 1973 c. 247; 1975 c. 343; 1977 c. 29; 1979 c. 52; 1981 c. 28, 36; 1983 a. 8, 168, 384; 1985 a. 17, 40; 1987 a. 38 ss. 60 to 66, 136; 1987 a. 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15, 56, 185, 186; 2001 a. 35, 43, 105; 2003 a. 197; 2005 a. 86, 142; 2007 a. 20, 59, 97; 2009 a. 287; 2011 a. 198; s. 35.17 correction in (3) (c) 1.

INS 35-24:

SECTION 4. 108.05 (3) (a) of the statutes, as affected by 2013 Wisconsin Act 2013 Wisconsin Act... (Assembly Bill 15) is repealed and recreated to read:

108.05 (3) (a) Except as provided in pars. (c), (d) and (dm) and s. 108.062, if an eligible employee earns wages in a given week, the first \$30 of the wages shall be disregarded and the employee's applicable weekly benefit payment shall be reduced

by 67% of the remaining amount, except that no such employee is eligible for benefits if the employee's benefit payment would be less than \$5 for any week. For purposes of this paragraph, "wages" includes any amount that a claimant would have earned in available work under s. 108.04 (1) (a) which is treated as wages under s. 108.04 (1) (bm), but excludes any amount that a claimant earns for services performed as a volunteer fire fighter, volunteer emergency medical technician, or volunteer first responder. In applying this paragraph, the department shall disregard discrepancies of less than \$2 between wages reported by employees and employers.

**History:** 1971 c. 53; 1973 c. 247; 1975 c. 343; 1977 c. 29; 1979 c. 52; 1981 c. 28, 36; 1983 a. 8, 168, 384; 1985 a. 17, 40; 1987 a. 38 ss. 60 to 66, 136; 1987 a. 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15, 56, 185, 186; 2001 a. 35, 43, 105; 2003 a. 197; 2005 a. 86, 142; 2007 a. 20, 59, 97; 2009 a. 287; 2011 a. 198; s. 35.17 correction in (3) (c) 1.

INS 94-22:

*repeal and recreation*  
Ⓢ The ~~treatment~~ of sections 108.04 (2) (a) 2. and 3. (intro.) and 108.05 (1) (q) (intro.) and (3) (a) of the statutes takes effect on June 30, 2013.

X LPS: replace this pound sign with an effective date auto number

or on the first Sunday after publication whichever is later

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

LRB-1975/P3dn  
JTK&MED:cjs:ph

Representative Knodl:

This draft is the initial draft of your items 2, 3, 4, 8, 9, 10, 11, 14, 15 (12-15, 12-27 and 12-28), 16, 17, 19, 22, 24, 25, 27, 28, and 34. We are working on other items at this time and will be reviewing them with the DWD legal staff. The other items will be added in successive redrafts when we have all the information we need to reduce them to draft format.

Currently, s. 108.04 (7) (d), stats., which we have repealed as provided in DWD's original proposal D12-19, allows a claimant to claim benefits after quitting a job, without requalifying, if the claimant quit the job to accept a recall from a former employer for which the claimant worked in the past year. Section 108.04 (8) (c), stats., which the proposal did not propose to repeal or otherwise amend, requires a claimant to either accept a recall under similar circumstances or lose benefits until the claimant requalifies. You may therefore wish to instead consider amending s. 108.04 (7) (d), stats., to limit it so that a claimant who quits a job because the claimant is required to accept a recall in order to maintain eligibility under s. 108.04 (8) (c) is not required to requalify if the recalling employer then lays off the claimant. We have discussed this situation with DWD and DWD confirms that some claimants could face this situation as your instructions now stand. We will let you know if DWD provides further information.

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

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov

## D12-03

**Date:** October 23, 2012  
**Proposed by:** Bureau of Benefits  
**Prepared by:** Amy Banicki

### **Explanation of Issue:**

The Handbook for Claimants (UCB-10) is very clear that claimants should not give their Personal Identification Number (PIN) to anyone and should change their PIN if they believe someone else knows it. It is the department's policy that a claimant who provides someone else his PIN to file claims or change information on his claim, is responsible for those actions, even if he didn't authorize the particular action that was taken. One exception would be a claimant who needs assistance to file claims due to a physical or mental disability. The investigator always considers mitigating circumstances and the claimant's efforts to resecure the claim by changing the PIN.

In some cases where the claimant provided their PIN to others for purposes of accessing or calling in claims, Administrative Law Judges (ALJ) have remanded back to the Department to investigate a potential known imposter issue.

With the creation of the claimant portal, which will allow claimants to file on line with a username and password, we believe it is important to codify the responsibility to not divulge their PIN, username and password (security credentials) or to not secure their security credentials on the claimant. It should not be the department's responsibility to try to determine who received unemployment when the claimant gives out or fails to secure their security credentials.

### **Proposed Statutory Language:**

#### **Create 108.04 (2)(g):**

1. Each applicant must create security credentials in order to engage in transactions with the department including but not limited to filing an initial or continued claim for unemployment insurance benefits. The security credentials may consist of a personal identification number (PIN), username and password or any other means prescribed by the department.
2. If an applicant's security credentials are used in the filing of an initial or continued request for unemployment benefits or any other type of transaction, the applicant is presumed to have been the individual using the security credentials. This presumption may be rebutted by a preponderance of the evidence showing that the applicant assigned the security credentials is not the individual who used the credentials in the transaction. If, however, the owner of the security credentials divulges the security credentials to another person, or fails to take adequate measures to protect them from being divulged to another person, the owner shall be strictly liable for any benefits erroneously paid as a result of such actions.

Date: September 21, 2012  
Proposed by: DWD  
Prepared By: Mike Mathis

## ANALYSIS OF PROPOSED UI LAW CHANGE

### Law Change to Allow Late Successorship Applications To Be Treated As If Timely Filed Under Certain Circumstances

#### 1. Description of Proposed Change

The business transfer and successorship provisions in Ch. 108 are found at Sec. 108.16(8)(a) – (o). The provisions state that business transfers may be, depending on the factual circumstances, optional or mandatory.

In order for a transferee to become a successor in an optional transfer situation four statutory requirements must be satisfied. One of the requirements is that the transferee has filed a timely successorship application. Sec. 108.08(b)4.

Per the above statute a successorship application is timely if received by the department not later than the contribution payment due date for the first full quarter following the date of transfer. Thus, for example, based on a transfer which took place on March 1, 2011, a successorship application would be considered timely if received by the department not later than July 31, 2011.

DWD 115.07(2)(b) provides that if a due date for an application would fall on a Saturday, Sunday or federal or state legal holiday the due date would be the next day that is not a Saturday, Sunday or federal or state holiday.

The amendment would provide that if there is a reason or reasons submitted by the transferee why the successorship application was late for a reason or reasons beyond the control of the transferee the requirement with respect to timely filing of a successorship application shall be deemed satisfied. If a transferee fails, after request by the department, to submit a written reason or reasons for the late filing of a successorship application, or if the department finds that the written reason or reasons submitted by a transferee do not establish the successorship application was late for a reason or reasons beyond the control of the transferee, the department shall issue an initial determination finding that the transferee is not a successor. Such an initial determination is appealable as provided in Sec. 108.10(1).

Based on the above a transferee that has filed a late successorship application would be given the opportunity to explain why the application was late. If it was determined that the transferee's explanation established that the application was filed late for a reason or reasons beyond the control of the transferee the application would be regarded as received timely. If a transferee provided either no explanation or an explanation that was found to be insufficient the subsequent "no successorship" ID could be appealed by the transferee.

2. Proposed Statutory Language

Amend 108.16 (8) (b) 4 to read:

(b) If the business of any employer is transferred, the transferee is deemed a successor for purposes of this chapter if the department determines that all of the following conditions have been satisfied:

4. The department has received a written application from the transferee requesting that it be deemed a successor. Unless the transferee satisfies the department that the successorship application was late for a reason or reasons beyond the control of the transferee, such Such application must be received by the department on or before the contribution payment due date for the first full quarter following the date of transfer.

3. Proposer's Reason for the Change

There have been many cases that employers have been unable to be treated as a successor due to inadvertent mistakes of the employer. This provision will enable some wiggle room to allow the department to grant the successorship if the employer can satisfy the department that the successorship application was late for a reason or reasons beyond the control of the transferee.

4. Effects of Proposed Change

- a. Policy. Allows for the department to have discretion to enable related employers to not inadvertently lose the positive unemployment experience of their predecessors.
- b. Administrative Impact. Will likely create some minor additional work as a result of the department having to make determinations as to whether or not there was a reason beyond the transferee's control for the late application.
- c. Equitable. It sometimes results in equitable outcomes when an employer is hurt by rigid application of the deadline. The proposal provides the department a method to address situations where applying the application deadline in a rigid manner results in inequitable outcomes.
- d. Fiscal. TBD

5. State and Federal Issues

- a. Chapter 108. Will need amendments to 108.16 (8) (b).
- b. Rules. DWD § 115.07 (2) will need to be amended to reflect the new statutory provisions.
- c. Conformity. There is no federal statute that prevents the Department from amending its procedures with respect to the process for granting successorship applications.

6. Proposed Effective/Applicability Date

The law change should be operative as of the effective date of the legislation.

*[Handwritten signature]*  
*Original*

**Date:**  
**Proposed by:**  
**Prepared by:**

October 16, 2012  
Bureau of Legal Affairs  
Scott Sussman

## ***ANALYSIS OF PROPOSED UI LAW CHANGE***

### ***Proposal to Address Issue of Claimants Simultaneously Collecting Both Social Security Disability Insurance and Unemployment Insurance***

#### **1. Description of Proposed Change**

Change would accomplish one of two things for a claimant who attempts to simultaneously collect social security disability and unemployment insurance:

- Make the claimant ineligible to collect unemployment insurance; or,
- If the claimant provides a statement from an appropriate licensed health care professional, he or she would receive his or her full unemployment insurance benefit if he or she is otherwise eligible for unemployment insurance.

#### **2. Proposed Statutory Language**

##### **Create 108.05 (7g) Social Security benefits.**

(a) If a claimant is receiving primary Social Security disability benefits for a particular week it creates a rebuttable presumption that the claimant is unavailable for suitable employment for that week, unless the claimant provides, on a Department form, a statement from an appropriate licensed health care professional who is aware of the claimant's Social Security disability claim and the basis for that claim, certifying that the claimant is available for suitable employment. If the claimant provides a statement that overcomes the rebuttable presumption, the claimant is still considered unavailable for suitable work unless the claimant earned base period wages under s. 108.06 (1) while receiving or having filed for primary Social Security disability benefits.

(b) Information from the Social Security Administration is considered conclusive, absent specific evidence showing that the information was erroneous.

#### **3. Reason for the Amendments**

Roughly 117,000 Americans double-dipped by cashing unemployment and Social Security disability checks, costing taxpayers a combined \$856 million in fiscal year 2010 according to the Government Accountability Office. Nationwide

the cash benefits they received totaled over \$281 million from DI and more than \$575 million from UI.

To understand why such "double-dipping" may constitute fraud, please note the following general requirements for each program:

- To receive unemployment insurance benefit payments, claimants must state that they are able to work.
- To receive disability insurance benefit payments, claimants must state that they are unable to work.

Under certain circumstances, it is possible that some individuals may be eligible for concurrent cash benefit payments due to differences in DI and UI eligibility requirements. Differences in program rules and definitions allow individuals in certain circumstances to receive overlapping DI and UI benefits without violating eligibility requirements. The Social Security Administration's definition of a disability involves work that does not rise to the level of substantial gainful activity. In contrast, a state's determination of "able and available for work" criteria for UI benefits may include performing work that does not rise to the level of substantial gainful activity. As a result, some individuals may have a disability under federal law but still be able and available for work under state law, thus eligible to receive DI and UI.<sup>1</sup>

Yet, many of individuals currently receiving both unemployment insurance benefit payments and disability insurance payments do not fall within that narrow category and are therefore committing acts of fraud. In general, legitimate

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<sup>1</sup> A number of reviewing federal courts have held that a Social Security disability claimant's acceptance of state unemployment compensation does not, in and of itself, prove an ability to work. See, e.g., *Lackey v. Celebrezze*, 349 F.2d 76, 79 (4th Cir. 1965) (claimant entitled to disability benefits where no showing made that claimant actually represented to state authorities that he was able to work or that he was aware of legal requirements for unemployment compensation); *Kinsella v. Schweiker*, 708 F.2d 1058, 1066 (6th Cir. 1983) (Swygert, J., dissenting) (noting that the mere receipt of unemployment insurance benefits does not prove ability to work); *Roberts v. Callahan*, 971 F. Supp. 498 (D.N.M. 1997) (although claimant had to state she was willing to work and that she applied for some jobs in order to receive unemployment benefits, case remanded to reconsider credibility determination); *Alverio v. Chater*, 902 F. Supp. 909, 928 (N.D. Iowa 1995) (finding that claimant's simultaneous receipt of unemployment insurance benefits and application for social security disability benefits did not negate her claim of disability or indicate substantial evidence of her lack of credibility); *Riley v. Heckler*, 585 F. Supp. 278 (S.D. Ohio 1984) (claimant entitled to award of past due disability benefits despite receiving state unemployment benefits); *Flores v. Dep't of Health, Educ. and Welfare*, 465 F. Supp. 317, 322 (S.D.N.Y. 1978) (record showing that administrative law judge relied almost exclusively on claimant's receipt of unemployment benefits failed to sustain denial of claim, but rather established that claimant made *prima facie* showing that he was unable to work at his former occupation).

beneficiaries of these social safety net programs can draw funds from one program, or the other, but not both at the same time.

Unemployment insurance benefits are not counted under the Social Security annual earnings test and therefore do not affect an individual's receipt of Social Security benefits. Yet, federal law does allow that the unemployment benefit amount of an individual to be reduced by the receipt social security disability insurance benefits.

#### **4. Brief History and Background of Current Provision**

Under certain circumstances, individuals may be eligible for concurrent cash benefit payments due to differences in social security disability insurance (DI) and unemployment insurance (UI) eligibility requirements. Some individuals may have a disability under federal law but still be eligible for UI under state law because they are able and available for work that does not rise to the level of substantial gainful activity.

Although DI and UI generally provide separate services to separate populations—and thus are not overlapping programs—the concurrent cash benefit payments for individuals eligible for both programs are an overlapping benefit when both replace lost earnings. While SSA must reduce DI benefits for individuals receiving certain other government disability benefits, such as worker's compensation, no federal law authorizes an automatic reduction or elimination of overlapping DI and UI benefits. Reducing or eliminating overlapping or improper payments could offer some savings and eliminate fraud on these two safety net programs.

#### **5. Effects of Proposed Change**

##### **(a) Policy:**

The intent of this change is to address situations where individuals are improperly collecting from both the social security disability insurance and unemployment insurance programs.

##### **(b) Administrative Impact:**

The proposed change should not have significant administrative impact on the Department.

**(c) Equitable:**

The overlapping payment of both social security disability insurance and unemployment insurance payments under the structure of both programs should be the exception. This proposal attempts to address concerns that individuals are unjustly benefiting from providing different answers to different government agencies.

**(d) Fiscal:**

The Government Accountability Office estimates that nationwide the practice of double-dipping by receiving both social security disability insurance and unemployment insurance cost the taxpayer \$856 million in fiscal year 2010. While individuals who collected from both programs represented less than 1 percent of the total beneficiaries of both programs, nationwide 117,000 individuals in fiscal year 2010 collected from both programs according to the government accountability office.

A fiscal impact on this specific proposed change for Wisconsin has not been completed at this point.

**6. State and Federal Issues**

**(a) Administrative Rules:**

There are no administrative rules impacted by this proposed statutory change and administrative rules would not be necessary to implement it.

**(b) Conformity:**

Federal law allows the unemployment insurance program to factor in payment of social security disability insurance payments in making determinations.

**7. Proposed Effective/Applicability Date**

The law change should be operative as of the effective date of the legislation.

**Date:** April 2, 2013  
**Proposed by:** Bureau of Legal Affairs  
**Prepared by:** Scott Sussman  
**Amended by:** UIAC April 1, 2013

## ***ANALYSIS OF PROPOSED UI LAW CHANGE***

### ***Proposal to Address Issue of Claimants Simultaneously Collecting Both Social Security Disability Insurance and Unemployment Insurance***

#### **1. Description of Proposed Change**

Change would make a claimant who attempts to simultaneously collect social security disability and unemployment insurance ineligible to collect unemployment insurance.

#### **2. Proposed Statutory Language**

##### **Create 108.05 (11) Social Security benefits.**

(a) If a claimant is receiving primary Social Security disability benefits for a particular week the claimant does not meet the general qualifying requirements pursuant to s. 108.04 (2) (a) 1.

(b) Information from the Social Security Administration is considered conclusive, absent clear and convincing evidence proving that the information was erroneous.

#### **3. Reason for the Amendments**

Roughly 117,000 Americans double-dipped by cashing unemployment and Social Security disability checks, costing taxpayers a combined \$856 million in fiscal year 2010 according to the Government Accountability Office. Nationwide the cash benefits they received totaled over \$281 million from DI and more than \$575 million from UI.

To understand why such "double-dipping" may constitute fraud, please note the following general requirements for each program:

- To receive unemployment insurance benefit payments, claimants must state that they are able to work.
- To receive disability insurance benefit payments, claimants must state that they are unable to work.

Unemployment insurance benefits are not counted under the Social Security annual earnings test and therefore do not affect an individual's receipt of Social Security benefits. Yet, federal law does allow that the unemployment benefit amount of an individual to be reduced by the receipt social security disability insurance benefits.

#### **4. Brief History and Background of Current Provision**

Although DI and UI generally provide separate services to separate populations—and thus are not overlapping programs—the concurrent cash benefit payments for individuals eligible for both programs are an overlapping benefit when both replace lost earnings. While SSA must reduce DI benefits for individuals receiving certain other government disability benefits, such as worker's compensation, no federal law authorizes an automatic reduction or elimination of overlapping DI and UI benefits. Reducing or eliminating overlapping or improper payments could offer some savings and eliminate fraud on these two safety net programs.

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The intent of this change is to address situations were individuals are improperly collecting from both the social security disability insurance and unemployment insurance programs.

##### **(b) Administrative Impact:**

The proposed change should not have significant administrative impact on the Department.

**(c) Equitable:**

This proposal attempts to address concerns that individuals are unjustly benefiting from providing different answers to different government agencies.

**(d) Fiscal:**

The Government Accountability Office estimates that nationwide the practice of double-dipping by receiving both social security disability insurance and unemployment insurance cost the taxpayer \$856 million in fiscal year 2010. While individuals who collected from both programs represented less than 1 percent of the total beneficiaries of both programs, nationwide 117,000 individuals in fiscal year 2010 collected from both programs according to the government accountability office.

A fiscal impact on this specific proposed change for Wisconsin has not been completed at this point.

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**(a) Administrative Rules:**

There are no administrative rules impacted by this proposed statutory change and administrative rules would not be necessary to implement it.

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Federal law allows the unemployment insurance program to factor in payment of social security disability insurance payments in making determinations.

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