Workforce Development

Unemployment Insurance

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LFB Summary Items for Which an Issue Paper Has Been Prepared

Item #	Title
2	Unemployment Administration (Paper #680)

LFB Summary Items Removed From Budget Consideration

Item #	Title
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3	Drug Testing
4	Weekly Benefit Rate
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9	Unemployment Insurance -- Substantial Fault
10	Quit Exception and Canvassing Period
11	Voluntary Termination
12	Unemployment Insurance -- Misclassification Penalties
13	Electronic Reporting and Transactions

Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

June, 2021 | Joint Committee on Finance | Paper #680

Unemployment Insurance Administration
(Workforce Development -- Unemployment Insurance)

[LFB 2021-23 Budget Summary: Pages 661, #2]

CURRENT LAW

The Department of Workforce Development's (DWD) Division of Unemployment Insurance administers Wisconsin's unemployment insurance (UI) law. Financing for the administration of the UI system is primarily federally funded and in the 2020-21 state fiscal year includes the following available sources:

- Standard "base" and "above base" federal grant funding for UI administration;
- Families First Coronavirus Response Act (FFCRA) emergency UI administration grant funding;
- Coronavirus Aid, Relief, and Economic Security (CARES) Act funding provided directly to DWD for costs related to administering expanded federal UI programs; and
- Coronavirus Relief Fund (CRF) reimbursements provided to DWD through the Department of Administration (DOA) under the CARES Act for certain UI-related expenses.

UI administrative costs are also supported with the amounts available in the Department's segregated nonlapsible program integrity fund, which is used for payment of costs associated with UI program integrity activities, such as recouping improper benefits or pursuing delinquent tax contributions. The fund closed the 2019-20 fiscal year with a $14.5 million continuing balance. In addition to penalty proceeds from claimants and employers, the fund also receives revenues from a 0.01% program integrity assessment on tax-contributing employers. This assessment is offset by a corresponding reduction in a separate fund-solvency tax generally assessed to contributing employers. The program integrity fund has collected between $4.5 million and $5.1 million annually in revenues over the three fiscal years through 2019-20.

DISCUSSION POINTS

1. The U.S. Department of Labor (USDOL) projects a state's UI workload in the next fiscal year using statistical models and economic assumptions. Once USDOL has projected a number of continued weekly claims, it recommends a "base" budget allocation sufficient to administer that number of weekly claims, along with an estimated number of other related workload items, such as initial claims, non-monetary determinations, and appeals. DWD will receive $55,521,613 in base administrative formula grant funding for federal fiscal year 2020-21 (FFY 21). States have discretion to expend these federal UI administrative grant funds as necessary to manage and operate their UI programs to meet established goals and requirements within the parameters of federal law.

2. States can also earn "above-base" funding as the state's insured unemployment rate rises above the base rate. Under normal circumstances, the USDOL provides above-base dollars when USDOL has not expended its entire federal appropriation and workloads in states have exceeded projections. Above-base funding is sporadic and, when provided, comes one quarter after the associated increase in workload occurs. DWD received $5.6 million in above-base funding in federal fiscal year 2019-20 (FFY 20).

3. DWD received $18,914,800 in UI emergency administration funding allocated to the state in the Families First Coronavirus Relief Act (FFCRA). The emergency grant is estimated by DWD to be fully spent in federal fiscal year 2021-22 (FFY 22) and federal fiscal year 2022-23 (FFY 23) to support costs not covered by revenues from federal base and above-base funding. According to the Department, the FFCRA emergency UI grant will support: (a) operational costs, including permanent, project, and limited-term staff; (b) IT services to modify and augment existing systems; and (c) contracted resources, such as call center operations.

4. The following table shows DWD's estimated revenues and costs associated with the administration of the Department's UI program. Estimated UI administrative costs over FFY 22 and FFY 23 total $230 million and exceed the $130.1 million in estimated base and above-base administrative grant revenues by $99.9 million through September 30, 2023. According to DWD, and as shown in the table, this funding shortfall will be supported with CRF reimbursement funding, UI administrative funding carried forward from FFY 21 to FFY 22, FFCRA emergency grant funds, and the continuing balance and projected annual revenues from the program integrity fund. After accounting for these additional estimated revenues, the table shows that the Department expects that costs will exceed revenues by $31 million through September 30, 2023.

5. Assembly Bill 68 / Senate Bill 111 would provide $15,000,000 GPR beginning in 2022-23 for administration of DWD's UI program in a new continuing UI general administration appropriation. AB 68/SB 111 would specify that if federal funding is received for the administration of the UI program prior to July 1, 2022, the DOA Secretary may, to the extent permitted under federal law, transfer from DWD's federal UI administration appropriation to the general fund an amount not to exceed $15,000,000 or the amount of federal funding received, whichever is less. This provision would not apply to federal funds received by DWD as base or above-base UI administrative grants. The appropriation created in AB 68/SB 111 specifies that the amounts provided be used for the administration of Chapter 108 (Unemployment Insurance and Reserves). This would include general administration of payments and contributions, adjudication, appeals, and information technology

needs of DWD's Unemployment Insurance Division.

6. The $15,000,000 GPR provided under AB 68/SB 111 would be base funding for purposes of establishing the 2023-25 biennial budget. The Department indicates the provision is intended to provide an additional $15 million on July 1, 2023, or a total of $30 million by September 30, 2023, which the Department anticipates will be sufficient to supplement UI administrative funding through FFY 23 based on current projections and in the absence of additional federal funding [Alternative 1].

Estimated Revenues and Costs for UI Administration

	FFY 22 - FFY 23
Estimated Revenues	
Base Grant and Above-Base Reimbursements (FFY22)	$68,194,400
Base Grant and Above-Base Reimbursements (FFY23)	61,907,700
Subtotal -- Base and Above-Base Funding	$130,102,100
Carry forward of funding from FFY 21 to FFY 22	$14,160,700
CRF reimbursements (FFY22)	15,412,400
FFRCA emergency grant	18,914,800
Program Integrity Fund	20,800,000
Subtotal -- State and Other Funding	$69,287,900
Total Revenues	$199,390,000
Estimated Costs	
UI Administration (FFY 22)	$115,653,900
UI Administration (FFY 23)	114,312,400
Total Estimated Costs	$229,966,300
Difference	-$30,576,300

7. The federal American Rescue Plan Act of 2021 (ARPA) provides $2.0 billion to USDOL for fraud detection and prevention, and to promote equitable access and ensure timely payment of benefits to eligible workers. Among the approved USDOL uses of these funds is grants to state UI programs to: (a) establish procedures or the building of infrastructure to verify or validate identity; (b) implement federal guidance regarding fraud detection and prevention; and (c) accelerate claims processing or process claims backlogs due to the pandemic. ARPA does not specify a manner of allocating any funds to states, and guidance regarding this appropriation has not yet been provided by USDOL. Although it is not clear how much funding could be allocated to Wisconsin, this federal funding could be used to support UI program operations.

8. ARPA also provides $2.5 billion in direct payments to Wisconsin. Under the Act, recipients may use these funds to replace lost revenue. The U.S. Treasury Department's interim final rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Upon receiving fiscal recovery funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. The rule allows recipients discretion to

use funding to support government services, up to an amount of lost revenue calculated as provided by the rule. Funds must be committed prior to December 31, 2024. Should a funding shortfall be identified, the administration could choose to allocate a portion of the ARPA funds for UI administration purposes.

9. The Committee could create a UI program administration continuing GPR appropriation, but provide funding to the Committee's supplemental GPR appropriation to be released upon request of DWD, should federal funding be inadequate to fund DWD's UI administrative costs [Alternative 2]. It is not certain that the UI administrative costs will remain at the levels projected by the Department. Assuming employment levels in the state continue to recover from the coronavirus pandemic, it is likely that the number of initial and continuing UI claims would continue to decline and administrative costs could be lower than those projected by DWD. The average number of initial claims for regular UI benefits decreased 40% in the first two full weeks in May as compared the average number of initial claims filed during the four weeks of April. Similarly, continuing claims for regular UI benefits decreased 17% over the same time period.

10. Alternatively, even with improving economic conditions and lower overall numbers of UI claimants, it is likely that increased administrative costs related to UI claims adjudication and appeals will continue into the 2021-23 biennium. Most recently, the average number of days a UI claimant's eligibility issue had to wait prior to being scheduled for adjudication increased from nine days during the week ending March 6, 2021, to 14 days during the week ending May 15, 2021. The average age of appeals filed and awaiting a hearing increased from 74 days during the week ending March 6, 2021, to 78 days during the week ending May 15, 2021. Allocating funding to the Committee's supplemental appropriation would give the Committee and DWD flexibility in accounting for program costs in the 2021-23 biennium, given the uncertainty in the estimates for UI administrative costs.

11. The Committee could take no action [Alternative 3]. The administration could continue to allocate additional federal funding the state will receive under ARPA. State funding could be provided in subsequent legislation, should available funding be insufficient to cover UI program administrative costs.

ALTERNATIVES

1. Provide $15,000,000 GPR in 2022-23 in ongoing base funding to a new continuing UI general administration appropriation. Specify that if federal funding is received for the administration of the UI program prior to July 1, 2022, the DOA Secretary may, to the extent permitted under federal law, transfer from DWD's federal UI administration appropriation, to the general fund, an amount not to exceed the amounts in the schedule under the Department's GPR UI general administration appropriation or the amount of federal funding received, whichever is less. Specify this provision would not apply to federal funds received as routine UI administrative grants by the state.

ALT 1	Change to Base
GPR	$15,000,000

2. Create a GPR continuing appropriation for UI general administration. Provide $15,000,000 GPR in 2021-22 to the Joint Committee on Finance's GPR supplemental appropriation for the purposes of UI administration. Require DWD to allocate all available federal funding for UI administration and UI information technology systems modernization before requesting any GPR for those purposes.

ALT 2	**Change to Base**
GPR	$15,000,000

3. Take no action.

Prepared by: Ryan Horton