

**2007 DRAFTING REQUEST**

**Bill**

Received: **01/25/2008**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Workforce Development**

By/Representing: **Tracey Schwalbe**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Unemployment Insurance**

Extra Copies: **Dan LaRocque - DWD - 1 (EM**

Submit via email: **YES**

Requester's email: **Daniel.LaRocque@dwd.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Unemployment insurance - various changes (S)

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**Instructions:**

Per LRB-3070/2.

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**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<br>01/25/2008 | csicilia<br>01/25/2008 |                       | _____          |  |                       | S&L             |
| /1           | cduerst<br>01/25/2008 |                        | nmatzke<br>01/25/2008 | _____          | cduerst<br>01/25/2008<br>cduerst<br>01/25/2008 | cduerst<br>01/25/2008 |                 |

FE Sent For: "/1" @ intro, 1-30-08

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|              |                       |                        |                       | _____          | cduerst<br>01/25/2008 |                 |                 |
|              |                       |                        |                       | _____          |                       |                 |                 |

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For: **Workforce Development 6-9641**

By/Representing: **Tracey Schwalbe**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Unemployment Insurance**

Extra Copies: **Dan LaRocque - DWD - 1 (EN**

Submit via email: **NO**

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No specific pre topic given

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Per LRB-3070/2.

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| /1           |                       |                        | nmatzke<br>01/25/2008 | _____          | cduerst<br>01/25/2008 |                 |                 |

FE Sent For:

<END>

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By/Representing: Tracey Schwalbe

This file may be shown to any legislator: NO

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Addl. Drafters:

Subject: Unemployment Insurance

Extra Copies: Dan LaRocque - DWD - 1 (EN

Submit via email: ~~NO~~ YES

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Unemployment insurance - various changes (S)

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**Instructions:**

Per LRB-3070/2.

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**Drafting History:**

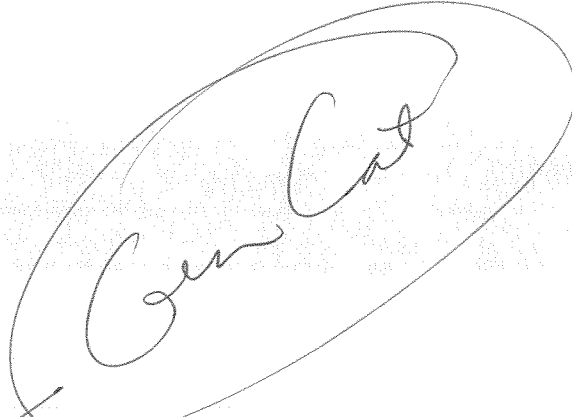
| <u>Vers.</u> | <u>Drafted</u>     | <u>Reviewed</u>     | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u>        | <u>Jacketed</u> | <u>Required</u> |
|--------------|--------------------|---------------------|--------------|----------------|-------------------------|-----------------|-----------------|
| 1/1          | jkuesel<br>1/25/08 | T cjs<br>1/25<br>07 | nwn<br>1/25  | nwn<br>1/25    | JACKET<br>FOR<br>SENATE |                 |                 |

FE Sent For:

<END>

Stays

2007 BILL



1 AN ACT *to repeal* 20.445 (1) (nc), 108.04 (1) (c), 108.04 (13) (g) and 108.22 (1) (a)  
2 1. and 2., *to renumber and amend* 108.04 (1) (a), 108.04 (11) (c), 108.17 (2) and  
3 108.22 (1) (a) (intro.); *to amend* 20.445 (1) (n), 108.02 (21) (b), 108.04 (1) (g) 1.  
4 and 2., 108.04 (4) (a), 108.04 (5), 108.04 (11) (a), 108.04 (11) (bm), 108.04 (11)  
5 (cm), 108.04 (13) (c), 108.04 (13) (e), 108.04 (13) (f), 108.04 (16) (a) (intro.),  
6 108.04 (16) (b), 108.04 (16) (c) 1., 108.04 (16) (c) 2., 108.05 (1) (p) (intro.), 108.05  
7 (3) (a), 108.05 (3) (b) 1. c., 108.067 (1), 108.15 (3) (e), 108.151 (1), 108.151 (7) (e),  
8 108.151 (7) (h), 108.152 (2) (b), 108.16 (6) (f), 108.16 (8) (b) 4., 108.17 (2b), 108.17  
9 (2c) (a) (intro.), 108.17 (2c) (c), 108.17 (2g), 108.18 (2) (a), 108.18 (4) (figure),  
10 108.18 (8), 108.18 (9) (figure), 108.19 (1e) (a), 108.19 (1m), 108.20 (3), 108.205  
11 (1m), 108.205 (2), 108.22 (1) (ac), 108.22 (1) (ac), 108.22 (1) (ad) 1., 108.22 (1)  
12 (ae), 108.22 (1) (am), 108.22 (1) (c) and 108.22 (9); *to repeal and recreate*  
13 108.04 (1) (b) and 108.04 (11) (b); and *to create* 20.445 (1) (nf), 108.04 (1) (a) 1.  
14 and 2., 108.04 (5g) (em), 108.04 (11) (be), 108.04 (11) (c) 1. to 3., 108.04 (11) (f)

**BILL**

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.

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***Analysis by the Legislative Reference Bureau***

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

**BENEFIT RATE CHANGES**

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 \$355 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 4, 2009, to rates ranging from \$54 for an employee who earns wages (or certain other amounts treated as wages) of at least \$1,350 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.

**OTHER BENEFIT CHANGES*****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

**BILL**

is made for an act of concealment that results in an overpayment of at least 50 percent of the claimant's weekly benefit rate. Currently, if a claimant is partially unemployed in a given week, the claimant may be eligible to receive benefits for that week under a formula that takes into account the amount of wages or certain other benefits that the claimant receives for that week. Currently, if an employer aids and abets a claimant in committing an act of concealment, the employer may be required to forfeit an amount equal to the amount of benefits that the claimant improperly received as a result of the concealment.

This bill provides that 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 is subject to graduated monetary penalties that increase in severity with the number of determinations of concealment by the claimant. The bill also provides that if a claimant conceals any wages for a given week, the claimant is ineligible to receive any benefits for that week. In addition, the bill provides that if an employer aids and abets or attempts to aid and abet a claimant in committing an act of concealment, the employer is subject to graduated monetary penalties that increase in severity with the number of determinations of aiding or abetting or attempted aiding or abetting by the employer.

***Availability for work and ability to perform work***

Currently, with certain exceptions, a claimant is eligible for 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's work is suspended by the claimant or by his or her employer or the claimant is terminated by his or her employer because the claimant is unable to perform or unavailable for some of his or her work or if a claimant takes a leave of absence for a portion of a week, the claimant may be eligible for some benefits for that week under a statutory benefit reduction formula. Currently, a claimant remains eligible for benefits while the claimant is enrolled in certain employment-related training.

This bill provides that if a claimant is absent from work with a current employer for 16 hours or less in a given week (including the first week of an absence resulting from a leave of absence, or the week in which a suspension or termination occurs) because the claimant was unable to work or unavailable for work, the claimant may be eligible for some benefits for that week under the benefit reduction formula. However, if a claimant is absent from work with a current employer for any of these reasons for more than 16 hours in a given week, the claimant is ineligible for any benefits for that week. Under the bill, a claimant remains eligible for benefits while the claimant is enrolled in certain employment-related training.

**TAX CHANGES*****Taxable wage base***

Currently, most employers that engage individuals in employment that is covered under the UI law must pay regular quarterly contributions (taxes) to DWD based on a percentage of the taxable wage base. Currently, the taxable wage base for any year consists of the first \$10,500 of wages paid by an employer to an individual engaged in covered employment.

**BILL**

This bill increases the amount of these wages that is subject to a contribution requirement to \$12,000 for calendar years 2009 and 2010, \$13,000 for calendar years 2011 and 2012, and \$14,000 for calendar year 2013 and thereafter.

***Contribution rate schedules***

Currently, the total contributions payable by each employer are the sum of the employer's contribution rate and solvency rate, each of which vary with the employment stability of the employer and the solvency of the unemployment reserve fund, from which benefits are paid. An employer's contributions payable as a result of its contribution rate are credited to the employer's account, while an employer's contributions payable as a result of its solvency rate are credited to the fund's balancing account, which is used to finance those benefits that are not payable from any employer's account.

This bill generally decreases the contribution rates of employers that do not have a negative balance in their accounts by two-tenths of one percent and decreases the contribution rates of employers that have a negative balance in their accounts by four-tenths of one percent. The bill also increases the solvency rates of employers that do not have a negative balance in their accounts by two-tenths of one percent and increases the solvency rates of employers that have a negative balance in their accounts by four-tenths of one percent. The changes are effective beginning in 2009.

***Deferral of first quarter contribution liability***

Currently, an employer that has a first quarter contribution liability of at least \$5,000 and that is not delinquent in making its contribution payments or in paying any interest, penalties, or fees assessed against the employer for UI purposes may defer up to 60 percent of the employer's contribution liability for the first quarter of the year in which liability accrues (otherwise payable by April 30) without payment of interest, if the employer pays at least 30 percent of that liability by the following July 31, an additional 20 percent of that liability by the following October 31, and any remaining liability by the following January 31. If an employer fails to make a deferred payment when due, the employer must pay interest on all contribution liability for the calendar year in which the liability accrues retroactive to April 30 of that year.

This bill permits a qualified employer that has a first quarter contribution liability of at least \$1,000 to defer payment of its first quarter contributions and requires any employer that elects to defer payment of its first quarter contributions to file its election electronically and to file its quarterly employment and wage reports with DWD electronically in the manner and form prescribed by DWD. Under the bill, if an employer fails to comply with the electronic reporting requirement, the employer is subject to the same requirement to pay interest retroactively that applies currently to late payments.

***Special assessments for financing of information technology systems***

Currently, each employer that is subject to a contribution requirement must pay an annual special assessment for each year prior to 2008 in an amount that may not exceed the lesser of 0.01 percent of the employer's annual taxable payroll for UI purposes or the employer's solvency contribution for that year for the purpose of financing the renovation and modernization of the unemployment insurance tax and



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accounting system. The Department of Workforce Development (DWD) must reduce the solvency contribution rate that an employer must pay in each year prior to 2008 by the special assessment rate applicable to that employer for that year. (The solvency contribution rate is the portion of an employer's rate that is used to maintain the solvency of the unemployment reserve fund.) This bill makes the special assessment requirement and solvency contribution rate offset applicable to calendar years 2008 and 2009.

**OTHER CHANGES*****Reporting and payment requirements and procedures***

Currently, with certain exceptions, each employer that has employees who are engaged in employment covered by the unemployment insurance law must file quarterly contribution (tax) and employment and wage reports and make quarterly payment of its contributions to DWD. An employer of 50 or more employees or an employer agent that files reports on behalf of any employer must file its reports electronically. Currently, there is no requirement or procedure established by law for making electronic payments of contributions.

This bill phases in electronic reporting requirements for additional employers with 25 or more employees. The bill also permits DWD to require an employer or employer agent that files its employment and wage reports electronically, in lieu of filing contribution reports, to determine the amount of contributions due for payment by the employer electronically in the manner and form prescribed by DWD. The employer or employer agent must then pay the amount due for each quarter by the same due date that is currently prescribed by law. Effective in 2009, the bill also requires each employer that makes contributions for any 12-month period ending on June 30 equal to a total of at least \$10,000 to make all contribution payments electronically in the following year. In addition, the bill requires every employer agent to make contribution payments electronically by the same date.

Currently, contribution payments must be received by DWD by the due date or if mailed must be postmarked by their due date or received within three days of their due date. This bill requires all contribution payments to be received by DWD by their due date.

***Failure of employers to provide information***

Currently, with limited exceptions, if benefits are erroneously paid because an employer fails to provide correct and complete information on a report to DWD, any corrective action by DWD based upon later receipt of correct and complete information does not affect charges to the employer's account for the cost of benefits paid as a result of the failure. In addition, prior to June 29, 2008, if benefits are erroneously paid because an employer fails to provide correct and complete information requested by DWD during a fact-finding investigation, but the employer later provides the requested information, then charges to the employer's account for the cost of benefits paid before the end of the week in which a redetermination or a decision of an appeal tribunal (hearing examiner) is issued regarding the matter are not affected by the redetermination or decision unless an appeal tribunal, the labor and industry review commission, or a court finds that the employer had good cause for failing to provide the information. This bill extends the

**BILL**

current treatment by DWD of benefits erroneously paid indefinitely and also provides that if an employer fails to provide complete and correct information requested by DWD during a fact-finding investigation, then benefits paid before the end of the week in which a redetermination or decision is issued are not affected by a redetermination or decision (notwithstanding any eligibility issue) unless an appeal tribunal, the commission, or a court finds that the employer had good cause for failing to provide the information. The changes are effective on the first Sunday after publication of the law resulting from enactment of the bill.

***Admission of departmental records relating to benefit claims***

Currently, with the exception of reports by certain experts, a departmental record relating to a benefit claim that contains uncorroborated hearsay and that is offered as evidence before an appeal tribunal (hearing examiner) may require testimony or other authentication to substantiate the information contained in the record before it may be used as evidence that an employer provided or failed to provide complete and correct information to DWD during a fact finding investigation. This bill provides that any such record relating to or submitted by an employer, if created in the regular course of a fact-finding investigation, constitutes prima facie evidence, and shall be admissible for the sole purpose of proving that an employer provided or failed to provide to DWD complete and correct information in a fact-finding investigation of the claim, notwithstanding that the record may contain uncorroborated hearsay, and may be used as the sole basis upon which the issue of the employer's failure is decided, if the parties appearing at the hearing before the tribunal are given an opportunity to review the record at or before the hearing and to rebut the information contained in the record. Under the bill, such a record requires no authenticating testimony or other evidence for the record to be admitted in evidence, unless the circumstances affirmatively indicate a lack of trustworthiness. If appropriate, the record may then be regarded on appeal as sufficient without further substantiation to sustain the decision of the appeal tribunal.

***Employment of certain parents by family-owned businesses***

Currently, with certain exceptions, the wages accruing to an individual that are used to compute the total benefits payable to the individual may not exceed ten times the individual's weekly benefit rate based solely on employment by a corporation, partnership, or limited liability company that is treated as a corporation or partnership for UI purposes in which the individual or a family member owns or controls a significant interest. Under current law, a "family member" includes a child. The benefit or limitation does not apply if the individual is employed in a family-owned business and there is an involuntary cessation of the business under certain circumstances. This bill excludes a child from the benefit limitation, thereby potentially making the parent of a child who, with other family members, owns a significant interest in the business by which the parent is employed eligible for benefits on the same basis as other employees of other employers. Under the bill, the limitation still applies to a claimant who is parent if the claimant has at least one-fourth ownership interest in a family business from which the claimant's employment is terminated.

**BILL*****Unemployment insurance administration funding***

Currently, the federal government provides regular grants to this state for the purpose of financing the cost of administration of the UI program. In addition, the federal government provides special grants to this state that may be used for the purpose of administration of UI, for the payment of UI benefits, or for certain other purposes. Previously, the first \$3,289,107 of the moneys in a special grant for federal fiscal year 2002 was appropriated for UI administration. The authority to expend moneys from this appropriation expired on October 1, 2007. This bill permits an additional \$1,000,000 of the moneys received in the special grant for federal fiscal year 2002 to be used for UI administration. The bill also permits another \$1,000,000 of the moneys received by this state in a special federal grant for federal fiscal year 2002 to be expended for the same purpose on or after October 1, 2008. Under the bill, none of these moneys may be encumbered or expended after September 30, 2009. The expenditure authorizations potentially increase the liability of employers to finance UI benefits through contributions (taxes).

***Study of “employee” definition***

The bill directs the Council on Unemployment Insurance to appoint a committee to conduct a study of the definition of “employee” in the unemployment insurance law and report its recommendations to the Council on Unemployment Insurance by June 30, 2009. The definition affects benefit eligibility as well as the amount of benefits that an individual may receive, and also affects the contributions or reimbursements that an employer is required to make.

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

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

1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2           the following amounts for the purposes indicated:

|   |               |   |        | <b>2007-08</b> | <b>2008-09</b> |
|---|---------------|---|--------|----------------|----------------|
| 3 |               |   |        |                |                |
| 4 | <b>20.445</b> | <b>Workforce development, department of</b> |        |                |                |
| 5 | (1)           | WORKFORCE DEVELOPMENT                       |        |                |                |
| 6 | (nf)          | Unemployment insurance                      |        |                |                |
| 7 |               | administration                              | PR-F C | 1,000,000      | 1,000,000      |

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

**BILL**

1           20.445 (1) (n) *Employment assistance and unemployment insurance*  
2 *administration; federal moneys.* All federal moneys received, as authorized by the  
3 governor under s. 16.54, for the administration of employment assistance and  
4 unemployment insurance programs of the department, for the performance of the  
5 department's other functions under subch. I of ch. 106 and ch. 108, except moneys  
6 appropriated under par. ~~(ne)~~ (nf), and to pay the compensation and expenses of  
7 appeal tribunals and of employment councils appointed under s. 108.14, to be used  
8 for such purposes, except as provided in s. 108.161 (3e), and, from the moneys  
9 received by this state under section 903 (d) of the federal Social Security Act, as  
10 amended, to transfer to the appropriation account under par. (nb) an amount  
11 determined by the treasurer of the unemployment reserve fund not exceeding the  
12 lesser of the amount specified in s. 108.161 (4) (d) or the amounts in the schedule  
13 under par. (nb), to transfer to the appropriation account under par. (nd) an amount  
14 determined by the treasurer of the unemployment reserve fund not exceeding the  
15 lesser of the amount specified in s. 108.161 (4) (d) or the amounts in the schedule  
16 under par. (nd), and to transfer to the appropriation account under par. (ne) an  
17 amount determined by the treasurer of the unemployment reserve fund not  
18 exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amount  
19 required to pay for the cost of banking services incurred by the unemployment  
20 reserve fund.

21           **SECTION 3.** 20.445 (1) (nc) of the statutes is repealed.

22           **SECTION 4.** 20.445 (1) (nf) of the statutes is created to read:

23           20.445 (1) (nf) *Unemployment insurance administration.* From the moneys  
24 received from the federal government under section 903 of the federal Social Security  
25 Act, as amended, for federal fiscal year 2002, as a continuing appropriation, the

**BILL**

1 amounts in the schedule, as authorized by the governor under s. 16.54, to be used for  
2 the administration of unemployment insurance. No moneys appropriated under this  
3 paragraph for the 2008–09 fiscal year may be encumbered or expended prior to  
4 October 1, 2008. No moneys may be encumbered or expended from this appropriation  
5 after September 30, 2009.

6 **SECTION 5.** 108.02 (21) (b) of the statutes is amended to read:

7 108.02 (21) (b) Notwithstanding par. (a), except as provided in s. 108.151 (7)  
8 (a), an employer's payroll for calendar years prior to 2009 includes only the first  
9 \$10,500 of wages paid by an employer to an individual during ~~a~~ each calendar year,  
10 for calendar years 2009 and 2010 includes only the first \$12,000 of such wages, for  
11 calendar years 2011 and 2012 includes only the first \$13,000 of such wages, and for  
12 calendar years after 2012 includes only the first \$14,000 of such wages, including any  
13 wages paid for any work covered by the unemployment insurance law of any other  
14 state, except as authorized in s. 108.17 (5).

15 **SECTION 6.** 108.04 (1) (a) of the statutes is renumbered 108.04 (1) (a) (intro.)  
16 and amended to read:

17 108.04 (1) (a) (intro.) ~~An employee's eligibility for benefits shall be reduced for~~  
18 ~~any week in which the~~ If an employee is with due notice called on by his or her current  
19 employing unit to report for work actually available within ~~such~~ a given week and  
20 is unavailable for, or unable to perform, ~~some or all of such available work.;~~

21 (bm) For purposes of ~~this paragraph~~ par. (a) 1. and (b) 2., the department shall  
22 treat the amount that the employee would have earned as wages for ~~that~~ a given  
23 week in ~~such~~ available work as wages earned by the employee and shall apply the  
24 method specified in s. 108.05 (3) (a) to compute the benefits payable to the employee.  
25 The department shall estimate wages that an employee would have earned if it is not

**BILL**

1 possible to compute the exact amount of wages that would have been earned by the  
2 employee.

3 **SECTION 7.** 108.04 (1) (a) 1. and 2. of the statutes are created to read:

4 108.04 (1) (a) 1. Sixteen or less hours of the work available for the week, the  
5 employee's eligibility for benefits for that week shall be reduced under par. (bm).

6 2. More than 16 hours of the work available for the week, the employee is  
7 ineligible for benefits for that week.

8 **SECTION 8.** 108.04 (1) (b) of the statutes is repealed and recreated to read:

9 108.04 (1) (b) 1. Except as provided in subd. 2., if an employee's employment  
10 is suspended by the employee or the employee's employer or an employee is  
11 terminated by the employee's employer, due to the employee's unavailability for work  
12 or inability to perform suitable work otherwise available with the employee's  
13 employer, or if the employee is on a leave of absence, the employee is ineligible for  
14 benefits while the employee is unable to work or unavailable for work.

15 2. If an employee is absent from work for 16 hours or less in the first week of  
16 a leave taken under subd. 1. or in the week in which a suspension or termination  
17 under subd. 1. occurs, the employee's eligibility for benefits for that week shall be  
18 determined under par. (bm).

19 **SECTION 9.** 108.04 (1) (c) of the statutes is repealed.

20 **SECTION 10.** 108.04 (1) (g) 1. and 2. of the statutes are amended to read:

21 108.04 (1) (g) 1. Employment by a partnership or limited liability company that  
22 is treated as a partnership under this chapter, if a one-half or greater ownership  
23 interest in the partnership or limited liability company is or during such employment  
24 was owned or controlled, directly or indirectly, by the individual's spouse or child, or

**BILL**

1 by the individual's parent if the individual is under age 18, or by a combination of 2  
2 or more of them.

3 2. Employment by a corporation or limited liability company that is treated as  
4 a corporation under this chapter, if one-half or more of the ownership interest,  
5 however designated or evidenced, in the corporation or limited liability company is  
6 or during such employment was owned or controlled, directly or indirectly, by the  
7 individual or by the individual's spouse ~~or child~~, or by the individual's parent if the  
8 individual is under age 18, or by a combination of 2 or more of them.

9 **SECTION 11.** 108.04 (4) (a) of the statutes is amended to read:

10 108.04 (4) (a) A claimant is not eligible to start a benefit year unless the  
11 claimant has combined base period wages equal to at least ~~30~~ 35 times the claimant's  
12 weekly benefit rate under s. 108.05 (1), including combined base period wages equal  
13 to at least 4 times the claimant's weekly benefit rate under s. 108.05 (1) in one or more  
14 quarters outside of the quarter within the claimant's base period in which the  
15 claimant has the highest base period wages.

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

17 108.04 (5) DISCHARGE FOR MISCONDUCT. Unless sub. (5g) applies results in  
18 disqualification, an employee whose work is terminated by an employing unit for  
19 misconduct connected with the employee's work is ineligible to receive benefits until  
20 7 weeks have elapsed since the end of the week in which the discharge occurs and  
21 the employee earns wages after the week in which the discharge occurs equal to at  
22 least 14 times the employee's weekly benefit rate under s. 108.05 (1) in employment  
23 or other work covered by the unemployment insurance law of any state or the federal  
24 government. For purposes of requalification, the employee's weekly benefit rate  
25 shall be that rate which would have been paid had the discharge not occurred. The

**BILL**

1 wages paid to an employee by an employer which terminates employment of the  
2 employee for misconduct connected with the employee's employment shall be  
3 excluded from the employee's base period wages under s. 108.06 (1) for purposes of  
4 benefit entitlement. This subsection does not preclude an employee who has  
5 employment with an employer other than the employer which terminated the  
6 employee for misconduct from establishing a benefit year using the base period  
7 wages excluded under this subsection if the employee qualifies to establish a benefit  
8 year under s. 108.06 (2) (a). The department shall charge to the fund's balancing  
9 account any benefits otherwise chargeable to the account of an employer that is  
10 subject to the contribution requirements under ss. 108.17 and 108.18 from which  
11 base period wages are excluded under this subsection.

12 **SECTION 13.** 108.04 (5g) (em) of the statutes is created to read:

13 108.04 **(5g)** (em) If an employee is not disqualified under this subsection, the  
14 employee may nevertheless be subject to the disqualification under sub. (5).

15 **SECTION 14.** 108.04 (11) (a) of the statutes is amended to read:

16 108.04 **(11)** (a) If a claimant, in filing his or her application for benefits or claim  
17 for any week, conceals any part of his or her wages earned in or paid or payable for  
18 that week, or conceals his or her refusal within that week of a job offer or any other  
19 material fact relating to his or her eligibility for benefits, so much of any benefit  
20 payment as was paid because of such concealment shall be recovered by the  
21 department as an overpayment the claimant shall forfeit benefits in accordance with  
22 par. (be).

23 **SECTION 15.** 108.04 (11) (b) of the statutes is repealed and recreated to read:

24 108.04 **(11)** (b) If a claimant, in filing a claim for any week, conceals any of his  
25 or her wages earned in or paid or payable for that week, the claimant shall forfeit



**BILL**

1 benefits in accordance with par. (be). In addition, the claimant shall be denied  
2 benefits for that week.

3 **SECTION 16.** 108.04 (11) (be) of the statutes is created to read:

4 108.04 **(11)** (be) A claimant shall forfeit benefits and be disqualified from  
5 receiving benefits for acts of concealment described in pars. (a) and (b) as follows:

6 1. A claimant shall forfeit an amount equal to the claimant's weekly benefit rate  
7 under s. 108.05 (1) for the week for which the claim is made for each single act of  
8 concealment occurring before the date of the first determination of concealment  
9 under par. (a) or (b).

10 2. A claimant shall forfeit 3 times the claimant's benefit rate under s. 108.05  
11 (1) for the week in which the claim is made for each single act of concealment  
12 occurring after the date of the first determination of concealment in which a penalty  
13 is applied under subd. 1. but on or before the date of the first determination of  
14 concealment in which a penalty is applied under this subdivision.

15 3. A claimant shall forfeit 5 times the claimant's benefit rate under s. 108.05  
16 (1) for the week in which the claim is made for each single act of concealment  
17 occurring after the date of the first determination of concealment in which a penalty  
18 is applied under subd. 2.

19 **SECTION 17.** 108.04 (11) (bm) of the statutes is amended to read:

20 108.04 **(11)** (bm) The forfeiture established under par. (b) ~~(be)~~ may be applied  
21 against benefits which would otherwise become payable to the claimant for weeks  
22 of unemployment occurring after the week of concealment and within 6 years after  
23 the date of an initial determination issued under s. 108.09 finding that a concealment  
24 occurred. If no benefit rate applies to the week for which the claim is made, the  
25 department shall use the claimant's benefit rate for the claimant's next benefit year

**BILL**

1 beginning after the week of concealment to determine the forfeiture amount. If the  
2 benefits forfeited would otherwise be chargeable to an employer's account, the  
3 department shall charge the amount of benefits forfeited to the employer's account  
4 and shall credit the fund's balancing account for that amount. ~~Any forfeiture amount~~  
5 ~~of less than \$1 shall be rounded up to the nearest whole dollar.~~

6 **SECTION 18.** 108.04 (11) (c) of the statutes is renumbered 108.04 (11) (c) (intro.)  
7 and amended to read:

8 108.04 **(11)** (c) (intro.) Any employing unit that aids and abets a claimant in  
9 committing or attempts to aid and abet a claimant in committing an act of  
10 concealment described in par. (a) or (b) may, by a determination issued under s.  
11 108.10, be required, as to each act of concealment the employing unit aids and abets  
12 or attempts to aid and abet, to forfeit an amount equal to the amount of the benefits  
13 the claimant improperly received as a result of the concealment. ~~The amount~~  
14 ~~forfeited shall be credited to the administrative account.~~ In addition, the employing  
15 unit shall be penalized as follows:

16 **SECTION 19.** 108.04 (11) (c) 1. to 3. of the statutes are created to read:

17 108.04 **(11)** (c) 1. The employing unit shall forfeit \$500 for each single act of  
18 concealment that the employing unit aids and abets or attempts to aid and abet a  
19 claimant to commit occurring before the date of the first determination that the  
20 employing unit has so acted.

21 2. The employing unit shall forfeit \$1,000 for each single act of concealment  
22 that the employing unit aids and abets or attempts to aid and abet a claimant to  
23 commit occurring after the date of the first determination that the employing unit  
24 has so acted in which a penalty is applied under subd. 1. but on or before the date of

**BILL**

1 the first determination that the employing unit has so acted in which a penalty is  
2 applied under this subdivision.

3 3. The employing unit shall forfeit \$1,500 for each single act of concealment  
4 that the employing unit aids and abets or attempts to aid and abet a claimant to  
5 commit occurring after the date of the first determination that the employing unit  
6 has so acted in which a penalty is applied under subd. 2.

7 **SECTION 20.** 108.04 (11) (cm) of the statutes is amended to read:

8 108.04 (11) (cm) If any person makes a false statement or representation in  
9 order to obtain benefits in the name of another person, the benefits received by that  
10 person constitute a benefit overpayment. Such person may, by a determination or  
11 decision issued under s. 108.095, be required to repay the amount of the benefits  
12 obtained and be assessed an administrative assessment in an additional amount  
13 equal to ~~not more than 50%~~ of the amount of benefits obtained.

14 **SECTION 21.** 108.04 (11) (f) and (g) of the statutes are created to read:

15 108.04 (11) (f) All amounts forfeited under par. (c) and all collections from  
16 administrative assessments under par. (cm) shall be credited to the administrative  
17 account.

18 (g) For purposes of this subsection, “conceal” means to intentionally mislead  
19 or defraud the department by withholding or hiding information or making a false  
20 statement or misrepresentation.

21 **SECTION 22.** 108.04 (13) (c) of the statutes is amended to read:

22 108.04 (13) (c) If an employer, after notice of a benefit claim, fails to file an  
23 objection to the claim under s. 108.09 (1), any benefits allowable under any resulting  
24 benefit computation shall, unless the department applies a provision of this chapter  
25 to disqualify the claimant, be promptly paid. Except as otherwise provided in this

**BILL**

1 paragraph, any eligibility question in objection to the claim raised by the employer  
2 after benefit payments to the claimant are commenced does not affect benefits paid  
3 prior to the end of the week in which a determination is issued as to the eligibility  
4 question unless the benefits are erroneously paid without fault on the part of the  
5 employer. ~~If, during the period beginning on January 1, 2006, and ending on June~~  
6 ~~28, 2008, Except as otherwise provided in this paragraph, if an employer fails to~~  
7 provide correct and complete information requested by the department during a  
8 fact-finding investigation, but later provides the requested information, ~~charges to~~  
9 ~~the employer's account for~~ benefits paid prior to the end of the week in which a  
10 redetermination is issued regarding the matter or, if no redetermination is issued,  
11 prior to the end of the week in which an appeal tribunal decision is issued regarding  
12 the matter, are not affected by the redetermination or decision, ~~except~~ unless the  
13 benefits are erroneously paid without fault on the part of the employer as provided  
14 in par. (g) (f). If benefits are erroneously paid because the employer and the employee  
15 are at fault, the department shall charge the employer for the benefits and proceed  
16 to create an overpayment under s. 108.22 (8) (a). If benefits are erroneously paid  
17 without fault on the part of the employer, regardless of whether the employee is at  
18 fault, the department shall charge the benefits as provided in par. (d), unless par. (e)  
19 applies, and proceed to create an overpayment under s. 108.22 (8) (a). If benefits are  
20 erroneously paid because an employer is at fault and the department recovers the  
21 benefits erroneously paid under s. 108.22 (8), the recovery does not affect benefit  
22 charges made under this paragraph.

23 **SECTION 23.** 108.04 (13) (e) of the statutes is amended to read:

24 108.04 **(13)** (e) If the department erroneously pays benefits from one  
25 employer's account and a 2nd employer is at fault, the department shall credit the

**BILL**

1 benefits paid to the first employer's account and charge the benefits paid to the 2nd  
2 employer's account. Filing of a tardy or corrected report or objection does not affect  
3 the 2nd employer's liability for benefits paid prior to the end of the week in which the  
4 department makes a recomputation of the benefits allowable or prior to the end of  
5 the week in which the department issues a determination concerning any eligibility  
6 question raised by the report or by the 2nd employer. ~~If, during the period beginning~~  
7 ~~on January 1, 2006, and ending on June 29, 2008,~~ the 2nd employer fails to provide  
8 correct and complete information requested by the department during a fact-finding  
9 investigation, but later provides the requested information, the department shall  
10 charge to the account of the 2nd employer the cost of benefits paid prior to the end  
11 of the week in which a redetermination is issued regarding the matter or, if no  
12 redetermination is issued, prior to the end of the week in which an appeal tribunal  
13 decision is issued regarding the matter, except unless the benefits erroneously are  
14 paid without fault on the part of the employer as provided in par. (g) (f). If the  
15 department recovers the benefits erroneously paid under s. 108.22 (8), the recovery  
16 does not affect benefit charges made under this paragraph.

17 **SECTION 24.** 108.04 (13) (f) of the statutes is amended to read:

18 108.04 **(13)** (f) If benefits are erroneously paid because the employer fails to file  
19 a report required by this chapter, the employer fails to provide correct and complete  
20 information on the report, the employer fails to object to the benefit claim under s.  
21 108.09 (1), the employer fails to provide correct and complete information requested  
22 by the department during a fact-finding investigation, unless an appeal tribunal,  
23 the commission, or a court of competent jurisdiction finds that the employer had good  
24 cause for the failure to provide the information, or the employer aids and abets the  
25 claimant in an act of concealment as provided in sub. (11), the employer is at fault.

**BILL**

1 If benefits are erroneously paid because an employee commits an act of concealment  
2 as provided in sub. (11) or fails to provide correct and complete information to the  
3 department, the employee is at fault.

4 **SECTION 25.** 108.04 (13) (g) of the statutes is repealed.

5 **SECTION 26.** 108.04 (16) (a) (intro.) of the statutes is amended to read:

6 108.04 **(16)** (a) (intro.) The department shall not reduce benefits under sub. (1)  
7 (a) 1., or deny benefits under sub. (1) (a) 2., (2) (a) or (d), or (8) or s. 108.141 (3g) to  
8 any otherwise eligible individual for any week as a result of the individual's  
9 enrollment in a course of vocational training or basic education which is a  
10 prerequisite to such training, provided the department determines that:

11 **SECTION 27.** 108.04 (16) (b) of the statutes is amended to read:

12 108.04 **(16)** (b) The department shall not apply any benefit reduction or  
13 disqualification under sub. (1) (b) 1., (7) (c), or (8) (e) or s. 108.141 (3g) that is not the  
14 result of training or basic education under par. (a) while an individual is enrolled in  
15 a course of training or education that meets the standards specified in par. (a).

16 **SECTION 28.** 108.04 (16) (c) 1. of the statutes is amended to read:

17 108.04 **(16)** (c) 1. The department shall not reduce benefits under sub. (1) (a)  
18 1. or deny benefits under sub. (1) (a) 2., (2) (a) or (d), or (8) or s. 108.141 (3g) to an  
19 otherwise eligible individual as a result of the individual's enrollment in such  
20 training; and

21 **SECTION 29.** 108.04 (16) (c) 2. of the statutes is amended to read:

22 108.04 **(16)** (c) 2. The department shall not apply any benefit ~~disqualifications~~  
23 reduction or disqualification under sub. (1) (b) 1., (7) (c), or (8) (e) or s. 108.141 (3g)  
24 that are is not the result of the training while the individual is enrolled in the  
25 training.