

Tue 3/9

Ljs

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SAV

Gen Cat

1 AN ACT...; relating to: various changes in the unemployment insurance law.

Analysis by the Legislative Reference Bureau

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

BENEFIT CHANGES

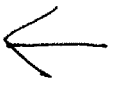
Approved training and extended training

Currently, benefits may not be denied to an otherwise eligible claimant because the claimant is enrolled in a vocational training course or a basic education course that is a prerequisite to such training ("approved training") under certain conditions. Current law also permits a claimant who has exhausted all rights to benefits and is enrolled in an approved training course that meets certain qualifications to potentially qualify to receive up to 26 weeks of additional benefits while enrolled in that training (extended training). This bill makes several changes to the provisions governing approved training and extended training. The bill:

LPS: please fix quotation mark

1. Provides that a claimant is not subject to certain disqualifications or requalifying requirements that otherwise apply to claimants who leave or refuse certain work after leaving certain temporary work, or after leaving on-the-job training that fails to meet certain federal requirements within 30 days after beginning that training.
2. Prohibits benefit reductions or disqualifications because a claimant is enrolled in certain federally funded training.
3. Broadens the types of training that may be considered approved training (thus precluding benefit denial or reduction during enrollment) to include certain

recently created programs administered by the Department of Workforce Development (DWD) and certain training under the federal Workforce Investment Act.



4. Provides that benefits for all claimants who are enrolled in approved training (rather than only certain benefits as currently provided) are not charged to the accounts of individual employers (thus potentially affecting employer contribution (tax) rates) but are instead charged to a pooled account funded by all employers who pay contributions to this state's unemployment reserve fund.

5. Eliminates a distinction between claimants who are totally unemployed and claimants who are partially unemployed in applying certain general qualifying requirements, one effect of which is to require DWD to determine whether a claimant is enrolled in approved training before determining whether a claimant meets certain other requirements to receive benefits, thereby enabling more prompt payment of benefits to enrollees.

6. Eliminates a requirement that a claimant must be separated from employment in a declining occupation or involuntarily separated as a result of a permanent reduction in the operations of his or her employer in order to receive extended training benefits.

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

1 SECTION 1. 108.04 (1) (g) (intro.) of the statutes is amended to read:
2 108.04 (1) (g) (intro.) Except as provided in par. (gm) and s. 108.06 (7) (d), the
3 base period wages utilized to compute total benefits payable to an individual under
4 s. 108.06 (1) as a result of the following employment shall not exceed 10 times the
5 individual's weekly benefit rate based solely on that employment under s. 108.05 (1):

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.

6 SECTION 2. 108.04 (2) (a) (intro.) of the statutes is amended to read:
7 108.04 (2) (a) (intro.) Except as provided in par. (b) and sub. (16) (am) and (b)
8 and as otherwise expressly provided, a claimant is eligible for benefits as to any given
9 week for which he or she earns no wages only if:

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11.

10 SECTION 3. 108.04 (2) (d) of the statutes is repealed.

11 SECTION 4. 108.04 (16) (a) of the statutes is repealed and recreated to read:



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108.04 (16) (a) ~~(intro.)~~ In this subsection, "approved training" means:

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1. A course of vocational training or basic education which is a prerequisite to

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such training in which an individual is enrolled if:

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a. The course is expected to increase the individual's opportunities to obtain employment;

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b. The course is given by a school established under s. 38.02 or another training institution approved by the department;

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c. The individual is enrolled full time as determined by the training institution;

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d. The course does not grant substantial credit leading to a bachelor's or higher degree; and

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e. The individual is attending regularly and making satisfactory progress in the course.

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2. A program administered by the department for the training of unemployed workers, other than the youth apprenticeship program under s. 106.13;

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3. The plan of any state for training under the federal trade act, 19 USC 2296;

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or

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4. A plan ~~of~~ for training approved under the federal workforce investment act, 29 USC 2822.

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SECTION 5. 108.04 (16) (am) of the statutes is created to read:

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108.04 (16) (am) The department shall not apply any benefit reduction or disqualification under sub. (1) (a), (2) (a), or (8), or s. 108.141 (3g) (a) or (c) to any otherwise eligible individual for any week as a result of the individual's enrollment in approved training.

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SECTION 6. 108.04 (16) (b) of the statutes ~~are~~ ^{is} amended to read:

1 108.04 (16) (b) The department shall not apply any benefit reduction or
 2 disqualification under sub. (1) (b), (2) (a), (7) (c), or (8) (e) or s. 108.141 (3g) (d) that
 3 is not the result of approved training or basic education under par. (a) while during
 4 any week in which an individual is enrolled in a course of training or education that
 5 meets the standards specified in par. (a) approved training ← plain period

6 SECTION 7. 108.04 (16) (c) of the statutes is repealed. x

7 SECTION 8. 108.04 (16) (d) of the statutes is amended to read:

8 108.04 (16) (d) If an individual is enrolled under the plan of any state for
 9 training under 19 USC 2296 or a plan for training of dislocated workers approved
 10 under 29 USC 2822 ⁱⁿ approved training specified in par. (a) 3. or 4. ← PLAIN colon

11 1. The department shall not deny benefits under sub. (7) as a result of the
 12 individual's leaving unsuitable work to enter or continue such training ^{PLAIN 2} and as a
 13 result of the individual's leaving work that the individual engaged in on a temporary
 14 basis during a break in the training or a delay in the commencement of the training,
 15 or because the individual left on-the-job training not later than 30 days after
 16 commencing that training because the individual did not meet the requirements of
 17 the federal trade act under 19 USC 2296 (c) (1) (B).

18 2. The requalifying requirements under subs. (7) and (8) do not apply while the
 19 individual is enrolled in such approved training specified in par. (a) 3. or 4.

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.

20 SECTION 9. 108.04 (16) (e) of the statutes is amended to read:

21 108.04 (16) (e) The department shall charge to the fund's balancing account
 22 the cost of benefits paid to an individual that are otherwise chargeable to the account
 23 of an employer that is subject to the contribution requirements of ss. 108.17 and

1 108.18 if the individual receives benefits based on the application of par. (am), (b),
2 (e) ~~2~~, or (d).

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, 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.

3 **SECTION 10.** 108.04 (16) (f) of the statutes is created to read:

4 108.04 (16) (f) As a condition to qualification of a course as approved training
5 for an individual under this subsection, the department may require a certification
6 from the training institution showing the individual's attendance and progress in the
7 course.

8 **SECTION 11.** 108.06 (7) (a) 2. and (b) 4. of the statutes, as created by 2009
9 Wisconsin Act 11, are amended to read:

10 108.06 (7) (a) 2. "Training program" means any program of a type specified in
11 s. 108.04 (16) (a).

12 (b) 4. Is not receiving similar stipends or other training allowances for
13 nontraining costs; and

History: 1971 c. 53; 1975 c. 343; 1981 c. 36; 1983 a. 8 ss. 23 to 27, 53, 55 (3), (4), (12), (13) and (14) and 56; 1983 a. 27 s. 1807m; 1983 a. 337; 1985 a. 17; 1987 a. 38, 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2009 a. 11.

14 **SECTION 12.** 108.06 (7) (b) 5. of the statutes, as created by 2009 Wisconsin Act

15 11, is repealed.

History: 1971 c. 53; 1975 c. 343; 1981 c. 36; 1983 a. 8 ss. 23 to 27, 53, 55 (3), (4), (12), (13) and (14) and 56; 1983 a. 27 s. 1807m; 1983 a. 337; 1985 a. 17; 1987 a. 38, 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2009 a. 11.

16 **SECTION 13.** 108.06 (7) (d) of the statutes, as created by 2009 Wisconsin Act 11,

17 is amended to read:

18 108.06 (7) (d) ~~No~~ A claimant may receive total benefits under this subsection
19 greater than of not more than 26 times the claimant's weekly benefit rate that
20 applied to the claimant's applicable benefit year while enrolled in a training
21 program. The benefits authorized under this subsection are in addition to any

1 regular benefits, extended benefits, or additional benefits authorized under federal
2 law to which a claimant may be entitled ← PLAIN

History: 1971 c. 53; 1975 c. 343; 1981 c. 36; 1983 a. 8 ss. 23 to 27, 53, 55 (3), (4), (12), (13) and (14) and 56; 1983 a. 27 s. 1807m; 1983 a. 337; 1985 a. 17; 1987 a. 38, 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2009 a. 11.

3 **SECTION 14.** 108.06 (7) (h) and (j) of the statutes, as created by 2009 Wisconsin
4 Act 11, are amended to read:

5 108.06 (7) (h) The occupations that qualify as ~~declining~~ or high-demand for
6 purposes of this subsection shall be determined by the department.

7 (j) The department shall charge benefits paid under this subsection in the same
8 manner as benefits are charged under s. 108.04 (16) (e).

NOTE: NOTE: Sub. (7) is shown as created eff. the 1st Sunday following the 90th day after May 18, 2009 by 2009 Wis. Act 11. NOTE:

History: 1971 c. 53; 1975 c. 343; 1981 c. 36; 1983 a. 8 ss. 23 to 27, 53, 55 (3), (4), (12), (13) and (14) and 56; 1983 a. 27 s. 1807m; 1983 a. 337; 1985 a. 17; 1987 a. 38, 255; 1989 a. 77; 1991 a. 89; 1993 a. 373; 1995 a. 118; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2009 a. 11.

9 **SECTION 15. Initial applicability.**

10 (1) The treatment of sections 108.04 (1) (a) (intro.), (2) (a) (intro.) and (d), (16)
11 (a), (am), (b), (c), (d), and (f) and 108.06 (7) (a) 2., (b) 4. and 5., (d), (h), and (j) of the
12 statutes (with respect to benefit payments) first applies with respect to
13 determinations issued under section 108.09 ^{of the statutes} on or after the effective date of this
14 subsection.

15 (2) The treatment of section 108.04 (16) (e) of the statutes first applies with
16 respect to charges for benefits made on July 1, 2010.

17 **SECTION 16. Effective date.**

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

19 (END)

D-note

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

LRB-4227/1dn
JTK:cjs:md

March 9, 2010

Dan LaRocque:

1. It appears that the language concerning benefit reductions and disqualifications affecting claimants enrolled in certain training programs that was included in s. 108.04 (16) (b) and (c), 2001 stats., was partially omitted in a complete revision of s. 108.04 (16), stats., that was proposed by the department in an issue paper dated 9/9/03. The revised language was then reflected in 2003 Wisconsin Act 197.
2. The initial applicability shown in this draft is a placeholder. I know you are still evaluating alternatives.

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

Draft language related to UI Advisory Council Committee recommendation:

Wis. Stat. 108.02(15)(k)21. of the statutes shall be created to read:

"Employment" . . . does not include service:

21. By an individual to an ill or disabled family member who is the employing unit for such services, if the service is personal care or companionship. "Family member" means a spouse, parent or child, by blood or adoption, or step-parent, step-child or domestic partner." "Domestic partner" has the meaning specified in Wis. Stat. §770.01(2).

Department comment on legislative intent: The UI Advisory Council Committee to Review the Unemployment Insurance Definition of "Employee" recommended that the UI Advisory Council exclude such services because such services are driven by the family relationship more than by the pay other attributes of employment. The Committee's intent is to relieve the employing unit from responsibility for contributions to the Wisconsin unemployment reserve fund and benefits. As the wording of the provision indicates, services provided to an ill or disabled family member who is not the employing unit for such services, as in the case where the services are procured through or delivered by a home care agency, are not within the exclusion.

Kuesel, Jeffery

From: LaRocque, Daniel J - DWD [Daniel.LaRocque@dwd.wisconsin.gov]
Sent: Friday, March 05, 2010 5:00 PM
To: Kuesel, Jeffery
Cc: Schwalbe, Tracey L - DWD; Mathis, Mike - DWD
Subject: UI Bill - provisions re employee definition and exclusion for personal care

Jeff:

LRB 09-3069/6 Sections 3 - 15 and Section 21 appear to accurately reflect our intent in changing the definition of "employee" and the adding an exclusion of personal care and companionship services. However, I am asking Mike Mathis to review those Sections again. He will do so Monday and let us know if there are any issues of concern in the draft.

I am asking Mike and Tracey to review the provisions on initial applicability of these changes, which are in Section 53 (1), (2) and (3) and confirm that these provisions will work.

Dan

vol contributions - no IA - eff date is OK

Kuesel, Jeffery

From: LaRocque, Daniel J - DWD [Daniel.LaRocque@dwd.wisconsin.gov]
Sent: Monday, March 08, 2010 11:09 AM
To: Kuesel, Jeffery
Cc: Schwalbe, Tracey L - DWD; Mathis, Mike - DWD
Subject: RE:

Jeff:

We are satisfied with the language in LRB 09-3069/6 Sections 3 - 15 and Section 21.

We are working on draft language for initial applicability for various provisions and hope to provide it soon.

Dan

From: Mathis, Mike - DWD
Sent: Monday, March 08, 2010 10:47 AM
To: LaRocque, Daniel J - DWD
Cc: Schwalbe, Tracey L - DWD
Subject:

Dan,

I have compared what was provided to the Council with the draft language of the 2009 Bill (LRB 3069-6) as you requested.

1. Exclusion for services provided by one family member to another "ill or "disabled" family member.

Sec. 21 is the new exclusion for services provided by a defined "family member" to a sick or disabled family member where, absent the exclusion, the family member receiving the services would be the employer of the family member providing the services. The services provided, to be within the exclusion, must be in the nature of "personal care" or "companionship".

The draft language of the exclusion in Sec. 21 is fine. The language is totally consistent with our intent as well as totally consistent with what was presented to, and approved by, the Council.

2. Change in "employee" definition.

The draft language with respect to the new employee definition is also fine and is also consistent with what was presented to, and approved by, the Council.

The first criteria under the new definition deals with direction and control. Outside of a few minor language changes, which have no impact on the meaning of the criteria, the only other change is go from past tense to present tense, e.g. "Whether the individual was required to comply with instructions..." becomes "Whether the individual is required to comply with instructions...".

My thought when drafting the new definition was that the past tense was appropriate because, at least in tax cases, the focus is only what the facts were during a past time period. I assume that using the present tense is a normal drafting convention of which I was not aware.

As to the other nine criteria, three are unchanged (expenses, profit/loss and recurring obligations).

The language of the remaining six criteria is essentially unchanged as compared to what was approved by the Council.

SUMMARY

The draft language in the 2009 Bill both as to the new employee definition and as to the new exclusion for family care services is totally acceptable and no changes are necessary or recommended.

Michael J. Mathis
Attorney, Bureau of Legal Affairs
Dept. of Workforce Development
608-266-8271

Kuesel, Jeffery

From: Schwalbe, Tracey L - DWD [Tracey.Schwalbe@dwd.wisconsin.gov]
Sent: Friday, March 05, 2010 9:40 AM
To: Kuesel, Jeffery
Cc: LaRocque, Daniel J - DWD
Subject: UI bill - repeal of tribal assurance requirement

Attachments: Eliminate tribal assurance requirement.doc

Hi Jeff,

Attached is the draft suggested language regarding the elimination of the assurance requirement for reimbursable tribal employers. It is pretty simple and straightforward. There were no other cross-references to the affected sections that I thought needed to be changed. As I noted on the language, the Council approved this to be effective January 1, 2011. If you have any questions, please let me know. Thanks.

Tracey



Eliminate tribal
assurance req...

Note: the Advisory Council approved this provision to be effective as of January 1, 2011.

108.152 Financing benefits for employees of Indian tribes. (1) ELECTION OF REIMBURSEMENT FINANCING. Each Indian tribe that is an employer may, in lieu of paying contributions under ss. 108.17 and 108.18, elect reimbursement financing for itself as a whole or for any tribal units or combinations of tribal units that are wholly owned subdivisions, subsidiaries, or business enterprises, as of the beginning of any calendar year, subject to the following conditions:

(a) The Indian tribe or tribal unit shall file a written notice of the election with the department before the beginning of that year except that, if the Indian tribe or tribal unit became an employer as of the beginning of that year, it shall file the notice within 30 days after the date of the determination that it is an employer.

(b) An Indian tribe or tribal unit whose election of reimbursement financing is terminated under sub. (2) (a) may not thereafter reelect reimbursement financing unless it has been subject to the contribution requirements of ss. 108.17 and 108.18 for at least 3 calendar years thereafter and is not, at the time of filing such reelection, delinquent under s. 108.22.

(d) If the Indian tribe or tribal unit is an employer prior to the effective date of an election, ss. 108.17 and 108.18 shall apply to all employment prior to the effective date of the election, but after all benefits based on prior employment have been charged to any account that it has had under s. 108.16 (2), the department shall transfer any positive balance or charge any negative balance remaining therein to the balancing account as if s. 108.16 (6) (c) and (6m) (d) applied.

Deleted: (c) No election of reimbursement financing is valid unless the Indian tribe or tribal unit has satisfied the requirements of sub. (3) within 60 days after it files the notice of election.¶

(2) TERMINATION OF ELECTION. (a) An Indian tribe or tribal unit that elected reimbursement financing may terminate its election as of the close of the 2nd calendar year to which the election applies, or at the close of any subsequent calendar year, by filing a written notice of termination with the department before the close of that year.

(b) If an Indian tribe or tribal unit terminates an election under this subsection, the employer's contribution rate is 2.5% on its payroll for each of the next 3 calendar years.

(4) REIMBURSEMENT ACCOUNT. The department shall maintain a reimbursement account, as a subaccount of the fund's balancing account, for each Indian tribe, tribal unit, or combination of tribal units in accordance with any valid election made under subs. (1) and (5) and subject to the procedures and conditions provided for other employers under s. 108.151 (5).

Deleted: (3) ASSURANCE OF REIMBURSEMENT. An Indian tribe or tribal unit electing reimbursement financing under sub. (1) shall file assurance of reimbursement in the same manner and subject to the conditions provided for other employers under s. 108.151 (4).¶

(5) GROUP REIMBURSEMENT ACCOUNT. An Indian tribe that has elected reimbursement financing for tribal units or one or more combinations of tribal units may request to have specified tribal units treated as one employer for purposes of this chapter. The department shall approve any such request subject to the following conditions:

(a) The tribal units shall be so treated for a period of at least the 3 calendar years following their request, unless their election of reimbursement financing is terminated under sub. (2) or (6), but the Indian tribe may discontinue the treatment as of the beginning of any calendar year following that period by filing notice with the department prior to the beginning of that calendar year.

(b) The tribal units shall be jointly and severally liable for any required reimbursements, together with any interest thereon and any penalties or tardy filing fees.

(c) The Indian tribe shall designate one or more individuals to act as an agent for all members of the group for all fiscal and reporting purposes under this chapter.

(6) FAILURE TO MAKE REQUIRED PAYMENTS. (a) If an Indian tribe or tribal unit fails to pay required contributions, reimbursements in lieu of contributions, penalties, interest, or fees

Deleted: OR FILE ASSURANCE OF REIMBURSEMENT

within 90 days of the time that the department transmits to the tribe a final notice of delinquency:

Deleted: , or fails to file or maintain the required assurance of reimbursement as provided in subs. (1) (c) and (3)

1. The department shall immediately notify the federal internal revenue service and the federal department of labor of that failure.

2. Any valid election of reimbursement financing is terminated as of the end of the current

calendar year,

Deleted: and any pending election that fails to meet the requirement to file an assurance of reimbursement under sub. (1) (c) is terminated immediately

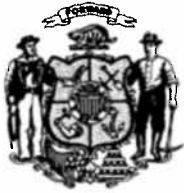
3. The department may consider the Indian tribe not to be an employer and may consider services performed for the tribe not to be employment for purposes of this chapter.

(b) An Indian tribe whose prior election of reimbursement financing has been terminated under

par. (a) may not thereafter reelect reimbursement financing unless it has been subject to the contribution requirements of ss. 108.17 and 108.18 for at least one calendar year thereafter and is not delinquent under s. 108.22 at the time that it files a request for reelection.

(c) The final notice of delinquency specified in par. (a) shall include information that failure to make full payment within the prescribed time will cause the Indian tribe to be liable for taxes under the federal Unemployment Tax Act (26 USC 3301, et seq.), will cause the tribe to be precluded from electing reimbursement financing, and may cause the department to determine that the tribe is not an employer and that services performed for the tribe are not employment for purposes of this chapter.

(7) REPORTS. Each Indian tribe that is an employer shall make employment and wage reports to the department under the same conditions that apply to other employers.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4227/7 2
JTK:cjs:md
/ stays

Wed 3/10

2009 BILL

SA ✓

(regenerate)

1 AN ACT *to repeal* 108.04 (2) (d), 108.04 (16) (c) and 108.06 (7) (b) 5.; *to amend*
 2 108.04 (1) (g) (intro.), 108.04 (2) (a) (intro.), 108.04 (16) (b), 108.04 (16) (d),
 3 108.04 (16) (e), 108.06 (7) (a) 2. and (b) 4., 108.06 (7) (d) and 108.06 (7) (h) and
 4 (j); *to repeal and recreate* 108.04 (16) (a); and *to create* 108.04 (16) (am) and
 5 108.04 (16) (f) of the statutes; **relating to:** various changes in the
 6 unemployment insurance law.

Analysis by the Legislative Reference Bureau

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

BENEFIT CHANGES

Approved training and extended training

Currently, benefits may not be denied to an otherwise eligible claimant because the claimant is enrolled in a vocational training course or a basic education course that is a prerequisite to such training ("approved training") under certain conditions. Current law also permits a claimant who has exhausted all rights to benefits and is enrolled in an approved training course that meets certain qualifications to potentially qualify to receive up to 26 weeks of additional benefits while enrolled in that training ("extended training"). This bill makes several changes to the provisions governing approved training and extended training. The bill:

BILL

1. Provides that a claimant is not subject to certain disqualifications or requalifying requirements that otherwise apply to claimants who leave or refuse certain work after leaving certain temporary work, or after leaving on-the-job training that fails to meet certain federal requirements within 30 days after beginning that training.

2. Prohibits benefit reductions or disqualifications because a claimant is enrolled in certain federally funded training.

3. Broadens the types of training that may be considered approved training (thus precluding benefit denial or reduction during enrollment) to include certain recently created programs administered by the Department of Workforce Development (DWD) and certain training under the federal Workforce Investment Act.

4. Provides that benefits for all claimants who are enrolled in approved training (rather than only certain benefits as currently provided) are not charged to the accounts of individual employers (thus potentially affecting employer contribution (tax) rates) but are instead charged to a pooled account funded by all employers who pay contributions to ~~this state's unemployment reserve fund~~ *the unemployment reserve fund's balancing account* *open paren* *the* *close paren*

5. Eliminates a distinction between claimants who are totally unemployed and claimants who are partially unemployed in applying certain general qualifying requirements, one effect of which is to require DWD to determine whether a claimant is enrolled in approved training before determining whether a claimant meets certain other requirements to receive benefits, thereby enabling more prompt payment of benefits to enrollees.

6. Eliminates a requirement that a claimant must be separated from employment in a declining occupation or involuntarily separated as a result of a permanent reduction in the operations of his or her employer in order to receive extended training benefits.

JWS
2A

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

1 **SECTION 1.** 108.04 (1) (g) (intro.) of the statutes is amended to read:

2 108.04 (1) (g) (intro.) Except as provided in par. (gm) and s. 108.06 (7) (d), the
3 base period wages utilized to compute total benefits payable to an individual under
4 s. 108.06 (1) as a result of the following employment shall not exceed 10 times the
5 individual's weekly benefit rate based solely on that employment under s. 108.05 (1):

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

BILL

1 108.04 (2) (a) (intro.) Except as provided in par. (b) and sub. (16) (am) and (b)
2 and as otherwise expressly provided, a claimant is eligible for benefits as to any given
3 week ~~for which he or she earns no wages~~ only if:

4 **SECTION 3.** 108.04 (2) (d) of the statutes is repealed.

5 **SECTION 4.** 108.04 (16) (a) of the statutes is repealed and recreated to read:

6 108.04 (16) (a) In this subsection, "approved training" means:

7 1. A course of vocational training or basic education which is a prerequisite to
8 such training in which an individual is enrolled if:

9 a. The course is expected to increase the individual's opportunities to obtain
10 employment;

11 b. The course is given by a school established under s. 38.02 or another training
12 institution approved by the department;

13 c. The individual is enrolled full time as determined by the training institution;

14 d. The course does not grant substantial credit leading to a bachelor's or higher
15 degree; and

16 e. The individual is attending regularly and making satisfactory progress in
17 the course.

18 2. A program administered by the department for the training of unemployed
19 workers, other than the youth apprenticeship program under s. 106.13;

20 3. The plan of any state for training under the federal trade act, 19 USC 2296;
21 or

22 4. A plan for training approved under the federal workforce investment act, 29
23 USC 2822.

24 **SECTION 5.** 108.04 (16) (am) of the statutes is created to read:

BILL

1 108.04 (16) (am) The department shall not apply any benefit reduction or
2 disqualification under sub. (1) (a), (2) (a), or (8), or s. 108.141 (3g) (a) or (c) to any
3 otherwise eligible individual for any week as a result of the individual's enrollment
4 in approved training.

5 **SECTION 6.** 108.04 (16) (b) of the statutes is amended to read:

6 108.04 (16) (b) The department shall not apply any benefit reduction or
7 disqualification under sub. (1) (b), ~~(2) (a)~~, (7) (c), or (8) (e) or s. 108.141 (3g) ~~(d)~~ that
8 is not the result of approved training or basic education under par. (a) while during
9 any week in which an individual is enrolled in ~~a course of training or education that~~
10 ~~meets the standards specified in par. (a)~~ approved training.

11 **SECTION 7.** 108.04 (16) (c) of the statutes is repealed.

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

13 108.04 (16) (d) If an individual is enrolled ~~under the plan of any state for~~
14 ~~training under 19 USC 2296 or a plan for training of dislocated workers approved~~
15 ~~under 29 USC 2822 in approved training specified in par. (a) 3. or 4.:~~

16 1. The department shall not deny benefits under sub. (7) as a result of the
17 individual's leaving unsuitable work to enter or continue such training, as a result
18 of the individual's leaving work that the individual engaged in on a temporary basis
19 during a break in the training or a delay in the commencement of the training, or
20 because the individual left on-the-job training not later than 30 days after
21 commencing that training because the individual did not meet the requirements of
22 the federal trade act under 19 USC 2296 (c) (1) (B); and

23 2. The requalifying requirements under subs. (7) and (8) do not apply while the
24 individual is enrolled in ~~such~~ approved training specified in par. (a) 3. or 4.

25 **SECTION 9.** 108.04 (16) (e) of the statutes is amended to read:

BILL

1 108.04 (16) (e) The department shall charge to the fund's balancing account the
2 cost of benefits paid to an individual that are otherwise chargeable to the account of
3 an employer that is subject to the contribution requirements of ss. 108.17 and 108.18
4 if the individual receives benefits based on the application of par. (am), (b), ~~(c) 2-~~, or
5 (d).

6 **SECTION 10.** 108.04 (16) (f) of the statutes is created to read:

7 108.04 (16) (f) As a condition to qualification of a course as approved training
8 for an individual under this subsection, the department may require a certification
9 from the training institution showing the individual's attendance and progress in the
10 course.

11 **SECTION 11.** 108.06 (7) (a) 2. and (b) 4. of the statutes, as created by 2009
12 Wisconsin Act 11, are amended to read:

13 108.06 (7) (a) 2. "Training program" means any program of a type specified in
14 s. 108.04 (16) (a).

15 (b) 4. Is not receiving similar stipends or other training allowances for
16 nontraining costs; and

17 **SECTION 12.** 108.06 (7) (b) 5. of the statutes, as created by 2009 Wisconsin Act
18 11, is repealed.

19 **SECTION 13.** 108.06 (7) (d) of the statutes, as created by 2009 Wisconsin Act 11,
20 is amended to read:

21 108.06 (7) (d) ~~No~~ A claimant may receive total benefits under this subsection
22 ~~greater than~~ of not more than 26 times the claimant's weekly benefit rate that
23 applied to the claimant's applicable benefit year while enrolled in a training
24 program. The benefits authorized under this subsection are in addition to any

BILL

1 regular benefits, extended benefits, or additional benefits authorized under federal
2 law to which a claimant may be entitled.

3 **SECTION 14.** 108.06 (7) (h) and (j) of the statutes, as created by 2009 Wisconsin
4 Act 11, are amended to read:

5 108.06 (7) (h) The occupations that qualify as ~~declining or~~ high-demand for
6 purposes of this subsection shall be determined by the department.

7 (j) The department shall charge benefits paid under this subsection in the same
8 manner as benefits are charged under s. 108.04 (16) (e).

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SECTION 15. Initial applicability.

(1) The treatment of sections 108.04 (1) (g) (intro.), (2) (a) (intro.) and (d), and
(16) (a), (am), (b), (c), (d), and (f) and 108.06 (7) (a) 2., (b) 4. and 5., (d), (h), and (j) of
the statutes (with respect to benefit payments) first applies with respect to
weeks of unemployment beginning
~~determinations issued under section 108.09 of the statutes~~ on the effective date of
this subsection.

(2) The treatment of section 108.04 (16) (e) of the statutes first applies with
respect to benefit years beginning on the effective date of this
~~charges for benefits made on July 1, 2010.~~ subsection

SECTION 16. Effective date.

(1) This act takes effect on July 4, 2010
~~the first Sunday after publication.~~

(END)

SAV

INS 2A:

OTHER CHANGES

Assurance requirement for Indian tribes

Currently, Indian tribes and tribal units are covered employers for UI purposes and their employees are potentially eligible to receive UI benefits. If an employee of an Indian tribe or tribal unit files a valid benefit claim, the cost of the benefits is charged to the claimant's employer. In most cases, employers must pay contributions (taxes) to the unemployment insurance fund to finance the cost of benefit payments. These contributions are payable regardless of whether benefits are charged to an employer's account. However, governmental and nonprofit employers and Indian tribes are permitted to reimburse the fund for the cost of benefits charged to their accounts after a claimant claims benefits. Currently, if an Indian tribe elects to finance its benefits on a reimbursement basis, it must provide to DWD assurance of reimbursement such as a surety bond in an amount specified by law. This bill eliminates the requirement to provide assurance of reimbursement. If benefit costs for a claimant are not reimbursed, payments to the claimant are not affected and the cost of benefits is charged to the fund's balancing account or an account into which UI interest and penalty revenues are credited.

INS 6-8:

✓
SECTION 1. 108.152 (1) (c) of the statutes is repealed. ✕

History: 2001 a. 35, 105; 2005 a. 86; 2007 a. 59.

✓
SECTION 2. 108.152 (3) of the statutes is repealed. ✕

✓
SECTION 3. 108.152 (6) (title) of the statutes is amended to read:

108.152 (6) (title) FAILURE TO MAKE REQUIRED PAYMENTS OR FILE ASSURANCE OF REIMBURSEMENT.

History: 2001 a. 35, 105; 2005 a. 86; 2007 a. 59.

✓
SECTION 4. 108.152 (6) (a) (intro.) of the statutes is amended to read:

↪ PLAIN PERIOD ✓
108.152 (6) (a) (intro.) If an Indian tribe or tribal unit fails to pay required contributions, reimbursements in lieu of contributions, penalties, interest, or fees within 90 days of the time that the department transmits to the tribe a final notice

of delinquency, ~~or fails to file or maintain the required assurance of reimbursement as provided in subs. (1) (c) and (3):~~

History: 2001 a. 35, 105; 2005 a. 86; 2007 a. 59.

SECTION 5. 108.152 (6) (a) 2. of the statutes is amended to read:

108.152 (6) (a) 2. Any valid election of reimbursement financing is terminated as of the end of the current calendar year ~~and any pending election that fails to meet the requirement to file an assurance of reimbursement under sub. (1) (c) is terminated immediately.~~

History: 2001 a. 35, 105; 2005 a. 86; 2007 a. 59.

SECTION 6. Nonstatutory provisions.

(1) CERTAIN BENEFIT PAYMENTS VALIDATED. Notwithstanding section 108.04 (16), 2007 stats., if any unemployment insurance claimant who was enrolled in training approved under the federal workforce investment act, 29 USC 2822, received benefits concurrently with that enrollment during the period beginning on or after August 23, 2009, and ending on the day before the time that the treatment of section 108.04 (16) of the statutes initially applies, and the claimant was otherwise eligible to receive the benefits, the payment of benefits to the claimant is valid if the claimant would have qualified to receive the benefits under section 108.04 (16) of the statutes, as affected by this act.

by this act

INS 6-16:

(2) The treatment of section 108.152 (1) (c), (3), and (6) (title) (intro.) and (a) 2. of the statutes first applies with respect to Indian tribes and tribal units electing or continuing reimbursement financing of benefits for calendar years beginning after December 31, 2010.

and (a)

Draft Language for Modification of Voluntary Contribution Provision

(7) VOLUNTARY CONTRIBUTIONS. (a) 1. Except as provided in pars. (b) to (j), any employer may make payments to the fund during the month of November in excess of those required by this section and s. 108.19 (1) and (1e). Each payment shall be credited to the employer's account for the purpose of computing the employer's reserve percentage as of the immediately preceding computation date.

Deleted: h

2. Each payment shall be treated as a contribution required and irrevocably paid under this chapter with respect to payrolls preceding the date it is credited except as a refund or credit is authorized under par. (b), (e), (h) or (i).

Deleted: or

(b) Except as provided in par. (i), no employer may, by means of a voluntary contribution under par. (a), reduce the employer's contribution rate to a rate lower than the next lower rate which would have applied to the employer for the following calendar year. Any contributions in excess of the amount required to reduce an employer's rate to the extent permitted under this paragraph shall be applied against any outstanding liability of the employer, or if there is no such liability shall be refunded to the employer or established as a credit against future contributions payable by the employer, without interest, at the employer's option. No payment that is established as a credit will be applied to the employer's account until the contribution is due.

Deleted: N

(c) No employer whose overdrafts have been charged to the fund's balancing account under s. 108.16 (7) (c) may make a voluntary contribution under par. (a) prior to the 5th calendar year commencing after the date of the most recent such charge. Any voluntary contribution made prior to that year shall be treated as an excess contribution under par. (b).

(d) A payment under this subsection is timely if it is received by the department no later than November 30 following the computation date for the calendar year to which it applies, [already approved]

Deleted: , or if mailed is either postmarked no later than that date or is received by the department no later than 3 days after that date

(e) The department may refund a voluntary contribution made under par. (a) if, due to an error of the department or an employer, the department makes an adjustment after the computation date or the November voluntary contribution period to the employer's account or payroll used to calculate the employer's reserve percentage that nullifies the rate reduction obtained by the voluntary payment. No refund may be authorized after the close of the calendar year for which the rate changed by the voluntary contribution applied.

(f) Notwithstanding par. (a), the department shall authorize an employer to make a voluntary contribution for the purpose of computing the employer's reserve percentage as of the immediately preceding computation date after the month of November, but in no case later than 120 days after the beginning of the calendar year to which the reserve percentage applies, in an amount sufficient to obtain a contribution rate that was:

- 1. Nullified by an erroneous charge or credit to the employer's account made by the department; or
2. Increased to a higher contribution rate by an erroneous charge or credit to the employer's account made by the department.

(g) Any payment under par. (f) must be received by the department within 30 days after the date of notice of the rate change caused by the adjustment and within 120 days after the beginning of the year to which the rate applies.
(h) The department shall establish contributions other than those required by this section and s. 108.19 (1) and (1e) and contributions other than those submitted during the month of November or authorized under par. (f) as a credit against future contributions payable by the employer, without interest, or shall refund the contributions at the employer's option. No payment that is established as a credit will be applied to the employer's account until the contribution is due.

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(i) 1. Notwithstanding par. (b), an employer that suffers physical damage to its business caused by a catastrophic event and through no primary fault of its own, and incurs benefit charges for layoffs due to the physical damage to the business, may, by means of a voluntary contribution under par. (a), increase the employer's reserve percentage to no greater than the reserve percentage the employer would have had as of the computation date had the physical damage to the business not caused the employer to lay off its employees. An employer must submit proof in the form and manner prescribed by the department to establish that workers were laid off due to the catastrophic event.

2. For payments made by an employer under subd. 1. after November 30, the department shall establish the payment as a credit and apply the payment to a voluntary contribution when the next rate computation occurs. Any amount paid to the department in excess of the amount that may be applied under subd. 1 as a voluntary payment may continue to be held as a credit without interest against future contributions payable by the employer, future voluntary contributions, or refunded to the employer, at the employer's option. No payment that is established as a credit will be applied to the employer's account until the contributions or future voluntary contributions are due.

made

Kuesel, Jeffery

From: Schwalbe, Tracey L - DWD [Tracey.Schwalbe@dwd.wisconsin.gov]
Sent: Tuesday, March 09, 2010 10:16 AM
To: Kuesel, Jeffery
Cc: LaRocque, Daniel J - DWD
Subject: UI Bill

Hi Jeff,

Please note that this should be the language for the voluntary contribution provision in the UI bill, 108.18(7)(i)1.:

(i) 1. Notwithstanding par. (b), an employer that suffers physical damage to its business caused by a catastrophic event and through no primary fault of its own, and incurs benefit charges for layoffs due to the physical damage to the business, may, by means of a voluntary contribution under par. (a), increase the employer's reserve percentage to no greater than the reserve percentage the employer would have had as of the computation date had the physical damage to the business not caused the employer to lay off its employees. An employer must notify the department of its election to have its contribution treated under this subdivision and must submit proof in the form and manner prescribed by the department to establish that workers were laid off due to the catastrophic event.

I am finalizing the applicability dates and will have that to you today. Please let me know if you have any questions.
Tracey



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4227/1 3

JTK:cjs:rs

THU 3/11 - noon

Stays

2009 BILL

(repealed)

1 AN ACT ~~to repeal~~ 108.04 (2) (d), 108.04 (16) (c), 108.06 (7) (b) 5., 108.152 (1) (c)
2 and 108.152 (3); **to amend** 108.04 (1) (g) (intro.), 108.04 (2) (a) (intro.), 108.04
3 (16) (b), 108.04 (16) (d), 108.04 (16) (e), 108.06 (7) (a) 2. and (b) 4., 108.06 (7) (d),
4 108.06 (7) (h) and (j), 108.152 (6) (title), 108.152 (6) (a) (intro.) and 108.152 (6)
5 (a) 2.; **to repeal and recreate** 108.04 (16) (a); and **to create** 108.04 (16) (am)
6 and 108.04 (16) (f) of the statutes; **relating to:** various changes in the
7 unemployment insurance law.

Analysis by the Legislative Reference Bureau

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

BENEFIT CHANGES

Approved training and extended training

Currently, benefits may not be denied to an otherwise eligible claimant because the claimant is enrolled in a vocational training course or a basic education course that is a prerequisite to such training ("approved training") under certain conditions. Current law also permits a claimant who has exhausted all rights to benefits and is enrolled in an approved training course that meets certain qualifications to potentially qualify to receive up to 26 weeks of additional benefits while enrolled in

BILL

that training (“extended training”). This bill makes several changes to the provisions governing approved training and extended training. The bill:

1. Provides that a claimant is not subject to certain disqualifications or requalifying requirements that otherwise apply to claimants who leave or refuse certain work after leaving certain temporary work, or after leaving on-the-job training that fails to meet certain federal requirements within 30 days after beginning that training.

2. Prohibits benefit reductions or disqualifications because a claimant is enrolled in certain federally funded training.

3. Broadens the types of training that may be considered approved training (thus precluding benefit denial or reduction during enrollment) to include certain recently created programs administered by the Department of Workforce Development (DWD) and certain training under the federal Workforce Investment Act.

4. Provides that benefits for all claimants who are enrolled in approved training (rather than only certain benefits as currently provided) are not charged to the accounts of individual employers (thus potentially affecting employer contribution (tax) rates) but are instead charged to the unemployment reserve fund’s balancing account (a pooled account funded by all employers who pay contributions to the fund).

5. Eliminates a distinction between claimants who are totally unemployed and claimants who are partially unemployed in applying certain general qualifying requirements, one effect of which is to require DWD to determine whether a claimant is enrolled in approved training before determining whether a claimant meets certain other requirements to receive benefits, thereby enabling more prompt payment of benefits to enrollees.

6. Eliminates a requirement that a claimant must be separated from employment in a declining occupation or involuntarily separated as a result of a permanent reduction in the operations of his or her employer in order to receive extended training benefits.

OTHER CHANGES

Assurance requirement for Indian tribes

Currently, Indian tribes and tribal units are covered employers for UI purposes and their employees are potentially eligible to receive UI benefits. If an employee of an Indian tribe or tribal unit files a valid benefit claim, the cost of the benefits is charged to the claimant’s employer. In most cases, employers must pay contributions (taxes) to the unemployment insurance fund to finance the cost of benefit payments. These contributions are payable regardless of whether benefits are charged to an employer’s account. However, governmental and nonprofit employers and Indian tribes are permitted to reimburse the fund for the cost of benefits charged to their accounts after a claimant claims benefits. Currently, if an Indian tribe elects to finance its benefits on a reimbursement basis, it must provide to DWD assurance of reimbursement such as a surety bond in an amount specified by law. This bill eliminates the requirement to provide assurance of reimbursement. If benefit costs for a claimant are not reimbursed, payments to the claimant are not affected and the

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BILL

cost of benefits is charged to the fund's balancing account or an account into which UI interest and penalty revenues are credited.

→ FE-SL →

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

1 **SECTION 1.** 108.04 (1) (g) (intro.) of the statutes is amended to read:

2 108.04 (1) (g) (intro.) Except as provided in par. (gm) and s. 108.06 (7) (d), the
3 base period wages utilized to compute total benefits payable to an individual under
4 s. 108.06 (1) as a result of the following employment shall not exceed 10 times the
5 individual's weekly benefit rate based solely on that employment under s. 108.05 (1):

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

7 108.04 (2) (a) (intro.) Except as provided in par. (b) and sub. (16) (am) and (b)
8 and as otherwise expressly provided, a claimant is eligible for benefits as to any given
9 week for which he or she earns no wages only if:

10 **SECTION 3.** 108.04 (2) (d) of the statutes is repealed.

11 **SECTION 4.** 108.04 (16) (a) of the statutes is repealed and recreated to read:

12 108.04 (16) (a) In this subsection, "approved training" means:

13 1. A course of vocational training or basic education which is a prerequisite to
14 such training in which an individual is enrolled if:

15 a. The course is expected to increase the individual's opportunities to obtain
16 employment;

17 b. The course is given by a school established under s. 38.02 or another training
18 institution approved by the department;

19 c. The individual is enrolled full time as determined by the training institution;

20 d. The course does not grant substantial credit leading to a bachelor's or higher
21 degree; and

BILL**SECTION 4**

1 e. The individual is attending regularly and making satisfactory progress in
2 the course.

3 2. A program administered by the department for the training of unemployed
4 workers, other than the youth apprenticeship program under s. 106.13;

5 3. The plan of any state for training under the federal trade act, 19 USC 2296;
6 or

7 4. A plan for training approved under the federal workforce investment act, 29
8 USC 2822.

9 **SECTION 5.** 108.04 (16) (am) of the statutes is created to read:

10 108.04 (16) (am) The department shall not apply any benefit reduction or
11 disqualification under sub. (1) (a), (2) (a), or (8), or s. 108.141 (3g) (a) or (c) to any
12 otherwise eligible individual for any week as a result of the individual's enrollment
13 in approved training.

14 **SECTION 6.** 108.04 (16) (b) of the statutes is amended to read:

15 108.04 (16) (b) The department shall not apply any benefit reduction or
16 disqualification under sub. (1) (b), (2) (a), (7) (c), or (8) (e) or s. 108.141 (3g) (d) that
17 is not the result of approved training ~~or basic education under par. (a) while during~~
18 any week in which an individual is enrolled in ~~a course of training or education that~~
19 ~~meets the standards specified in par. (a)~~ approved training.

20 **SECTION 7.** 108.04 (16) (c) of the statutes is repealed.

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

22 108.04 (16) (d) If an individual is enrolled ~~under the plan of any state for~~
23 ~~training under 19 USC 2296 or a plan for training of dislocated workers approved~~
24 ~~under 29 USC 2822~~ in approved training specified in par. (a) 3. or 4.:

BILL

1 1. The department shall not deny benefits under sub. (7) as a result of the
2 individual's leaving unsuitable work to enter or continue such training, as a result
3 of the individual's leaving work that the individual engaged in on a temporary basis
4 during a break in the training or a delay in the commencement of the training, or
5 because the individual left on-the-job training not later than 30 days after
6 commencing that training because the individual did not meet the requirements of
7 the federal trade act under 19 USC 2296 (c) (1) (B); and

8 2. The requalifying requirements under subs. (7) and (8) do not apply while the
9 individual is enrolled in such approved training specified in par. (a) 3. or 4.

10 **SECTION 9.** 108.04 (16) (e) of the statutes is amended to read:

11 108.04 (16) (e) The department shall charge to the fund's balancing account the
12 cost of benefits paid to an individual that are otherwise chargeable to the account of
13 an employer that is subject to the contribution requirements of ss. 108.17 and 108.18
14 if the individual receives benefits based on the application of par. (am), (b), ~~(e) 2.~~, or
15 (d).

16 **SECTION 10.** 108.04 (16) (f) of the statutes is created to read:

17 108.04 (16) (f) As a condition to qualification of a course as approved training
18 for an individual under this subsection, the department may require a certification
19 from the training institution showing the individual's attendance and progress in the
20 course.

21 **SECTION 11.** 108.06 (7) (a) 2. and (b) 4. of the statutes, as created by 2009
22 Wisconsin Act 11, are amended to read:

23 108.06 (7) (a) 2. "Training program" means any program of a type specified in
24 s. 108.04 (16) (a).

BILL**SECTION 11**

1 (b) 4. Is not receiving similar stipends or other training allowances for
2 nontraining costs; and

3 **SECTION 12.** 108.06 (7) (b) 5. of the statutes, as created by 2009 Wisconsin Act
4 11, is repealed.

5 **SECTION 13.** 108.06 (7) (d) of the statutes, as created by 2009 Wisconsin Act 11,
6 is amended to read:

7 108.06 (7) (d) ~~No~~ A claimant may receive total benefits under this subsection
8 ~~greater than~~ of not more than 26 times the claimant's weekly benefit rate that
9 applied to the claimant's applicable benefit year while enrolled in a training
10 program. The benefits authorized under this subsection are in addition to any
11 regular benefits, extended benefits, or additional benefits authorized under federal
12 law to which a claimant may be entitled.

13 **SECTION 14.** 108.06 (7) (h) and (j) of the statutes, as created by 2009 Wisconsin
14 Act 11, are amended to read:

15 108.06 (7) (h) The occupations that qualify as ~~declining~~ or high-demand for
16 purposes of this subsection shall be determined by the department.

17 (j) The department shall charge benefits paid under this subsection in the same
18 manner as benefits are charged under s. 108.04 (16) (e).

19 **SECTION 15.** 108.152 (1) (c) of the statutes is repealed.

20 **SECTION 16.** 108.152 (3) of the statutes is repealed.

21 **SECTION 17.** 108.152 (6) (title) of the statutes is amended to read:

22 108.152 (6) (title) ~~FAILURE TO MAKE REQUIRED PAYMENTS OR FILE ASSURANCE OF~~
23 ~~REIMBURSEMENT.~~

24 **SECTION 18.** 108.152 (6) (a) (intro.) of the statutes is amended to read:

BILL

1 108.152 (6) (a) (intro.) If an Indian tribe or tribal unit fails to pay required
2 contributions, reimbursements in lieu of contributions, penalties, interest, or fees
3 within 90 days of the time that the department transmits to the tribe a final notice
4 of delinquency, ~~or fails to file or maintain the required assurance of reimbursement~~
5 ~~as provided in subs. (1) (e) and (3):~~

6 **SECTION 19.** 108.152 (6) (a) 2. of the statutes is amended to read:

7 108.152 (6) (a) 2. Any valid election of reimbursement financing is terminated
8 as of the end of the current calendar year ~~and any pending election that fails to meet~~
9 ~~the requirement to file an assurance of reimbursement under sub. (1) (e) is~~
10 ~~terminated immediately.~~

11 **SECTION 20. Nonstatutory provisions.**

12 (1) CERTAIN BENEFIT PAYMENTS VALIDATED. Notwithstanding section 108.04 (16),
13 2007 stats., if any unemployment insurance claimant who was enrolled in training
14 approved under the federal workforce investment act, 29 USC 2822, received
15 benefits concurrently with that enrollment during the period beginning on or after
16 August 23, 2009, and ending on the day before the time that the treatment of section
17 108.04 (16) of the statutes by this act initially applies, and the claimant was
18 otherwise eligible to receive the benefits, the payment of benefits to the claimant is
19 valid if the claimant would have qualified to receive the benefits under section 108.04
20 (16) of the statutes, as affected by this act.

21 **SECTION 21. Initial applicability.**

22 (1) The treatment of sections 108.04 (1) (g) (intro.), (2) (a) (intro.) and (d), and
23 (16) (a), (am), (b), (c), (d), and (f) and 108.06 (7) (a) 2., (b) 4. and 5., (d), (h), and (j) of
24 the statutes (with respect to benefit payments) first applies with respect to weeks of
25 unemployment beginning on the effective date of this subsection.

SAV ✓
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INS 2A:

TAX CHANGES

Voluntary contributions after catastrophic loss

Currently, with certain exceptions and limitations, an employer may make voluntary contribution (tax) payments in any year that may, in some cases, result in a lower contribution rate than would otherwise have applied to the employer in the succeeding year. However, no employer may, by means of a voluntary contribution, reduce the employer's contribution rate to a rate more than one rate lower than the rate that would have applied to the employer in the applicable statutory rate schedule had the voluntary contribution not been made. This bill provides that, notwithstanding this limitation, an employer that suffers physical damage to its business caused by a catastrophic event for which the employer was not primarily responsible, and incurs benefit charges to its UI account for layoffs due to that damage may, by means of a voluntary contribution, increase the employer's reserve percentage (account balance used to compute an employer's contribution rate) to no greater than the reserve percentage that would have applied to the employer had the damage not caused the employer to lay off its employees.

INS 7-10:

SECTION 1. 108.18 (7) (a) of the statutes is amended to read:

108.18 (7) (a) 1. Except as provided in pars. (b) to ~~(h)~~ (i), any employer may make payments to the fund during the month of November in excess of those required by this section and s. 108.19 (1) and (1e). Each payment shall be credited to the employer's account for the purpose of computing the employer's reserve percentage as of the immediately preceding computation date.

2. Each payment shall be treated as a contribution required and irrevocably paid under this chapter with respect to payrolls preceding the date it is credited except as a refund or credit is authorized under par. (b), (e) ~~or~~, (h) or (i).

History: 1971 c. 42, 53, 211; 1973 c. 247; 1975 c. 343; 1977 c. 133; 1979 c. 12, 52; 1983 a. 8, 27, 99; 1983 a. 189 s. 329 (28); 1983 a. 384; 1985 a. 17, 40, 332; 1987 a. 38 ss. 113 to 121, 134; 1989 a. 56 s. 259; 1989 a. 77, 359; 1991 a. 89; 1993 a. 373, 492; 1995 a. 118, 225, 417; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2005 a. 86; 2007 a. 59.

SECTION 2. 108.18 (7) (b) of the statutes is amended to read:

108.18 (7) (b) ~~No~~ Except as provided in par. (i), no employer may, by means of a voluntary contribution under par. (a), reduce the employer's contribution rate to a rate lower than the next lower rate which would have applied to the employer for the following calendar year. Any contributions in excess of the amount required to reduce an employer's rate to the extent permitted under this paragraph shall be applied against any outstanding liability of the employer, or if there is no such liability shall be refunded to the employer or established as a credit, without interest, against future contributions payable by the employer, at the employer's option.

History: 1971 c. 42, 53, 211; 1973 c. 247; 1975 c. 343; 1977 c. 133; 1979 c. 12, 52; 1983 a. 8, 27, 99; 1983 a. 189 s. 329 (28); 1983 a. 384; 1985 a. 17, 40, 332; 1987 a. 38 ss. 113 to 121, 134; 1989 a. 56 s. 259; 1989 a. 77, 359; 1991 a. 89; 1993 a. 373, 492; 1995 a. 118, 225, 417; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2005 a. 86; 2007 a. 59.

SECTION 3. 108.18 (7) (h) of the statutes is amended to read:

108.18 (7) (h) The department shall establish contributions other than those required by this section and s. 108.19 (1) and (1e) and contributions other than those submitted during the month of November or authorized under par. (f) as a credit, without interest, against future contributions payable by the employer or shall refund the contributions at the employer's option.

or (i) 2.

History: 1971 c. 42, 53, 211; 1973 c. 247; 1975 c. 343; 1977 c. 133; 1979 c. 12, 52; 1983 a. 8, 27, 99; 1983 a. 189 s. 329 (28); 1983 a. 384; 1985 a. 17, 40, 332; 1987 a. 38 ss. 113 to 121, 134; 1989 a. 56 s. 259; 1989 a. 77, 359; 1991 a. 89; 1993 a. 373, 492; 1995 a. 118, 225, 417; 1997 a. 39; 1999 a. 15; 2001 a. 43; 2005 a. 86; 2007 a. 59.

SECTION 4. 108.18 (7) (i) and (j) of the statutes are created to read:

108.18 (7) (i) 1. An employer that suffers physical damage to its business caused by a catastrophic event for which the employer is not primarily responsible, and incurs benefit charges to its account for layoffs due to that damage may, by means of a voluntary contribution under par. (a), increase the employer's reserve percentage to no greater than the reserve percentage that would have applied to the employer as of the next computation date had that damage not caused the employer to lay off its employees. An employer that makes a voluntary contribution under this subdivision shall notify the department of its election to have its contribution treated

2
Paragraph

in the manner provided in this subsection and shall submit proof, in the form and manner prescribed by the department, to establish that its employees were laid off due to the catastrophic event.

2. If an employer makes a payment made by under subd. 1. after November 30 and before November 30 of the succeeding year, the department shall establish the payment as a credit and apply the payment as a voluntary contribution when the next rate computation occurs. Any amount paid to the department in excess of the amount that may be applied under subd. 1 in any year may continue to be held as a credit, without interest, against future required or voluntary contributions for a calendar year or refunded to the employer, at the employer's option.

1

✓

under this subsection

(j) The department shall not establish a payment by an employer as a credit to be applied against the employer's account against future contributions for a calendar year until the contributions become due.

to

Kuesel, Jeffery

From: Schwalbe, Tracey L - DWD [Tracey.Schwalbe@dwd.wisconsin.gov]
Sent: Thursday, March 11, 2010 2:14 PM
To: Kuesel, Jeffery
Cc: LaRocque, Daniel J - DWD
Subject: UI bill LRB 4227/3

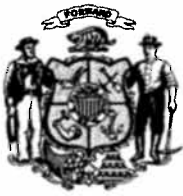
Hi Jeff,

I reviewed the legislative language for the UI bill and discussed it with department staff. I just have a few comments:

- ✓ 1. For the approved training provisions, in Section 6, we would like to keep the phrase "while an individual is enrolled" instead of "during any week in which an individual is enrolled." This is for consistency. The words "while enrolled" are generally used for approved training. See, e.g., Section 8 - 108.04(16)(d)2., and Section 13 - 108.06(7)(d). We want to be sure the provisions are interpreted consistently.
- ✓ Also, we now have the programming estimate for the charging piece and think we could accomplish that by October 1. We also will be able to change over all applicable claims to noncharging as of the same week. Therefore, we would like to change the applicability provision for 108.04(16)(e) to "first applies with respect to weeks of unemployment beginning on October 3, 2010."
- ✓ 2. Everything for the tribal assurance provision is fine.
- ✓ 3. For the voluntary contribution provisions, we like your wording for the exception. For 108.18(7)(i)2., we think you should add the phrase "to the employer's account" in the first sentence "...shall establish the payment as a credit and apply the payment as a voluntary contribution *to the employer's account* when the next rate computation occurs." With this addition, we think your wording for (7)(i)2. resolves the concern Dan had with employers needing to know when the voluntary payment would be applied to their account to affect their reserve percentage, and we do not need (j). Paragraph (j) is not correct and as we tried to restate it, we realized that the language of (i)2. encapsulates the concept with the addition of the phrase above. Z X

If you have any questions, please let me know. As I understand, you will next be putting all of the bill provisions together into one document. Thanks.

Tracey



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4227/3 4

JTK:cjs:jf

Stays

2009 BILL

Fri 3/12 AM

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1 AN ACT ~~to repeal~~ 108.04 (2) (d), 108.04 (16) (c), 108.06 (7) (b) 5., 108.152 (1) (c)

2 and 108.152 (3); **to amend** 108.04 (1) (g) (intro.), 108.04 (2) (a) (intro.), 108.04

3 (16) (b), 108.04 (16) (d), 108.04 (16) (e), 108.06 (7) (a) 2. and (b) 4., 108.06 (7) (d),

4 108.06 (7) (h) and (j), 108.152 (6) (title), 108.152 (6) (a) (intro.), 108.152 (6) (a)

5 2., 108.18 (7) (a), 108.18 (7) (b) and 108.18 (7) (h); **to repeal and recreate**

6 108.04 (16) (a), and **to create** 108.04 (16) (am), 108.04 (16) (f) and 108.18 (7) (i)

7 and (j) of the statutes; **relating to:** various changes in the unemployment

8 insurance law.

Analysis by the Legislative Reference Bureau

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

BENEFIT CHANGES

Approved training and extended training

Currently, benefits may not be denied to an otherwise eligible claimant because the claimant is enrolled in a vocational training course or a basic education course that is a prerequisite to such training ("approved training") under certain conditions. Current law also permits a claimant who has exhausted all rights to benefits and is

BILL

enrolled in an approved training course that meets certain qualifications to potentially qualify to receive up to 26 weeks of additional benefits while enrolled in that training ("extended training"). This bill makes several changes to the provisions governing approved training and extended training. The bill:

1. Provides that a claimant is not subject to certain disqualifications or requalifying requirements that otherwise apply to claimants who leave or refuse certain work after leaving certain temporary work, or after leaving on-the-job training that fails to meet certain federal requirements within 30 days after beginning that training.

2. Prohibits benefit reductions or disqualifications because a claimant is enrolled in certain federally funded training.

3. Broadens the types of training that may be considered approved training (thus precluding benefit denial or reduction during enrollment) to include certain recently created programs administered by the Department of Workforce Development (DWD) and certain training under the federal Workforce Investment Act.

4. Provides that benefits for all claimants who are enrolled in approved training (rather than only certain benefits as currently provided) are not charged to the accounts of individual employers (thus potentially affecting employer contribution (tax) rates) but are instead charged to the unemployment reserve fund's balancing account (a pooled account funded by all employers who pay contributions to the fund).

5. Eliminates a distinction between claimants who are totally unemployed and claimants who are partially unemployed in applying certain general qualifying requirements, one effect of which is to require DWD to determine whether a claimant is enrolled in approved training before determining whether a claimant meets certain other requirements to receive benefits, thereby enabling more prompt payment of benefits to enrollees.

6. Eliminates a requirement that a claimant must be separated from employment in a declining occupation or involuntarily separated as a result of a permanent reduction in the operations of his or her employer in order to receive extended training benefits.

TAX CHANGES***Voluntary contributions after catastrophic loss***

Currently, with certain exceptions and limitations, an employer may make voluntary contribution (tax) payments in any year that may, in some cases, result in a lower contribution rate than would otherwise have applied to the employer in the succeeding year. However, no employer may, by means of a voluntary contribution, reduce the employer's contribution rate to a rate more than one rate lower than the rate that would have applied to the employer in the applicable statutory rate schedule had the voluntary contribution not been made. This bill provides that, notwithstanding this limitation, an employer that suffers physical damage to its business caused by a catastrophic event for which the employer was not primarily responsible, and incurs benefit charges to its UI account for layoffs due to that damage may, by means of a voluntary contribution, increase the employer's reserve

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percentage (account balance used to compute an employer's contribution rate) to no greater than the reserve percentage that would have applied to the employer had the damage not caused the employer to lay off its employees.

OTHER CHANGES

Assurance requirement for Indian tribes

Currently, Indian tribes and tribal units are covered employers for UI purposes and their employees are potentially eligible to receive UI benefits. If an employee of an Indian tribe or tribal unit files a valid benefit claim, the cost of the benefits is charged to the claimant's employer. In most cases, employers must pay contributions (taxes) to the unemployment insurance fund to finance the cost of benefit payments. These contributions are payable regardless of whether benefits are charged to an employer's account. However, governmental and nonprofit employers and Indian tribes are permitted to reimburse the fund for the cost of benefits charged to their accounts after a claimant claims benefits. Currently, if an Indian tribe elects to finance its benefits on a reimbursement basis, it must provide to DWD assurance of reimbursement such as a surety bond in an amount specified by law. This bill eliminates the requirement to provide assurance of reimbursement. If benefit costs for a claimant are not reimbursed, payments to the claimant are not affected and the cost of benefits is charged to the fund's balancing account or an account into which UI interest and penalty revenues are credited.

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

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space
before
the fiscal
estimate

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

1 **SECTION 1.** 108.04 (1) (g) (intro.) of the statutes is amended to read:
2 108.04 (1) (g) (intro.) Except as provided in par. (gm) and s. 108.06 (7) (d), the
3 base period wages utilized to compute total benefits payable to an individual under
4 s. 108.06 (1) as a result of the following employment shall not exceed 10 times the
5 individual's weekly benefit rate based solely on that employment under s. 108.05 (1):

6 **SECTION 2.** 108.04 (2) (a) (intro.) of the statutes is amended to read:
7 108.04 (2) (a) (intro.) Except as provided in par. (b) and sub. (16) (am) and (b)
8 and as otherwise expressly provided, a claimant is eligible for benefits as to any given
9 week for which he or she earns no wages only if:

10 **SECTION 3.** 108.04 (2) (d) of the statutes is repealed.

BILL**SECTION 4**

1 **SECTION 4.** 108.04 (16) (a) of the statutes is repealed and recreated to read:

2 108.04 **(16)** (a) In this subsection, “approved training” means:

3 1. A course of vocational training or basic education which is a prerequisite to
4 such training in which an individual is enrolled if:

5 a. The course is expected to increase the individual’s opportunities to obtain
6 employment;

7 b. The course is given by a school established under s. 38.02 or another training
8 institution approved by the department;

9 c. The individual is enrolled full time as determined by the training institution;

10 d. The course does not grant substantial credit leading to a bachelor’s or higher
11 degree; and

12 e. The individual is attending regularly and making satisfactory progress in
13 the course.

14 2. A program administered by the department for the training of unemployed
15 workers, other than the youth apprenticeship program under s. 106.13;

16 3. The plan of any state for training under the federal trade act, 19 USC 2296;
17 or

18 4. A plan for training approved under the federal workforce investment act, 29
19 USC 2822.

20 **SECTION 5.** 108.04 (16) (am) of the statutes is created to read:

21 108.04 **(16)** (am) The department shall not apply any benefit reduction or
22 disqualification under sub. (1) (a), (2) (a), or (8), or s. 108.141 (3g) (a) or (c) to any
23 otherwise eligible individual for any week as a result of the individual’s enrollment
24 in approved training.

25 **SECTION 6.** 108.04 (16) (b) of the statutes is amended to read:

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1 108.04 (16) (b) The department shall not apply any benefit reduction or
 2 disqualification under sub. (1) (b), (2) (a), (7) (c), or (8) (e) or s. 108.141 (3g) (d) that
 3 is not the result of approved training ~~or basic education under par. (a) while during~~
 4 ~~any week in which~~ an individual is enrolled in ~~a course of training or education that~~
 5 meets the standards specified in par. (a) approved training.

6 **SECTION 7.** 108.04 (16) (c) of the statutes is repealed.

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

8 108.04 (16) (d) If an individual is enrolled ~~under the plan of any state for~~
 9 ~~training under 19 USC 2296 or a plan for training of dislocated workers approved~~
 10 ~~under 29 USC 2822 in approved training specified in par. (a) 3. or 4.:~~

11 1. The department shall not deny benefits under sub. (7) as a result of the
 12 individual's leaving unsuitable work to enter or continue such training, as a result
 13 of the individual's leaving work that the individual engaged in on a temporary basis
 14 during a break in the training or a delay in the commencement of the training, or
 15 because the individual left on-the-job training not later than 30 days after
 16 commencing that training because the individual did not meet the requirements of
 17 the federal trade act under 19 USC 2296 (c) (1) (B); and

18 2. The requalifying requirements under subs. (7) and (8) do not apply while the
 19 individual is enrolled in such approved training specified in par. (a) 3. or 4.

20 **SECTION 9.** 108.04 (16) (e) of the statutes is amended to read:

21 108.04 (16) (e) The department shall charge to the fund's balancing account the
 22 cost of benefits paid to an individual that are otherwise chargeable to the account of
 23 an employer that is subject to the contribution requirements of ss. 108.17 and 108.18
 24 if the individual receives benefits based on the application of par. (am), (b), ~~(c) 2-~~, or
 25 (d).

BILL**SECTION 10**

1 **SECTION 10.** 108.04 (16) (f) of the statutes is created to read:

2 108.04 (16) (f) As a condition to qualification of a course as approved training
3 for an individual under this subsection, the department may require a certification
4 from the training institution showing the individual's attendance and progress in the
5 course.

6 **SECTION 11.** 108.06 (7) (a) 2. and (b) 4. of the statutes, as created by 2009
7 Wisconsin Act 11, are amended to read:

8 108.06 (7) (a) 2. "Training program" means any program of a type specified in
9 s. 108.04 (16) (a).

10 (b) 4. Is not receiving similar stipends or other training allowances for
11 nontraining costs; and

12 **SECTION 12.** 108.06 (7) (b) 5. of the statutes, as created by 2009 Wisconsin Act
13 11, is repealed.

14 **SECTION 13.** 108.06 (7) (d) of the statutes, as created by 2009 Wisconsin Act 11,
15 is amended to read:

16 108.06 (7) (d) No A claimant may receive total benefits under this subsection
17 greater than of not more than 26 times the claimant's weekly benefit rate that
18 applied to the claimant's applicable benefit year while enrolled in a training
19 program. The benefits authorized under this subsection are in addition to any
20 regular benefits, extended benefits, or additional benefits authorized under federal
21 law to which a claimant may be entitled.

22 **SECTION 14.** 108.06 (7) (h) and (j) of the statutes, as created by 2009 Wisconsin
23 Act 11, are amended to read:

24 108.06 (7) (h) The occupations that qualify as ~~declining~~ or high-demand for
25 purposes of this subsection shall be determined by the department.

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1 (j) The department shall charge benefits paid under this subsection in the same
2 manner as benefits are charged under s. 108.04 (16) (e).

3 **SECTION 15.** 108.152 (1) (c) of the statutes is repealed.

4 **SECTION 16.** 108.152 (3) of the statutes is repealed.

5 **SECTION 17.** 108.152 (6) (title) of the statutes is amended to read:

6 108.152 **(6)** (title) ~~FAILURE TO MAKE REQUIRED PAYMENTS OR FILE ASSURANCE OF~~
7 ~~REIMBURSEMENT.~~

8 **SECTION 18.** 108.152 (6) (a) (intro.) of the statutes is amended to read:

9 108.152 **(6)** (a) (intro.) If an Indian tribe or tribal unit fails to pay required
10 contributions, reimbursements in lieu of contributions, penalties, interest, or fees
11 within 90 days of the time that the department transmits to the tribe a final notice
12 of delinquency, ~~or fails to file or maintain the required assurance of reimbursement~~
13 ~~as provided in subs. (1) (c) and (3):~~

14 **SECTION 19.** 108.152 (6) (a) 2. of the statutes is amended to read:

15 108.152 **(6)** (a) 2. Any valid election of reimbursement financing is terminated
16 as of the end of the current calendar year ~~and any pending election that fails to meet~~
17 ~~the requirement to file an assurance of reimbursement under sub. (1) (c) is~~
18 ~~terminated immediately.~~

19 **SECTION 20.** 108.18 (7) (a) of the statutes is amended to read:

20 108.18 **(7)** (a) 1. Except as provided in pars. (b) to ~~(h)~~ (i), any employer may
21 make payments to the fund during the month of November in excess of those required
22 by this section and s. 108.19 (1) and (1e). Each payment shall be credited to the
23 employer's account for the purpose of computing the employer's reserve percentage
24 as of the immediately preceding computation date.

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1 2. Each payment shall be treated as a contribution required and irrevocably
2 paid under this chapter with respect to payrolls preceding the date it is credited
3 except as a refund or credit is authorized under par. (b), (e) ~~or~~, (h) or (i).

4 **SECTION 21.** 108.18 (7) (b) of the statutes is amended to read:

5 108.18 (7) (b) ~~No~~ Except as provided in par. (i), no employer may, by means of
6 a voluntary contribution under par. (a), reduce the employer's contribution rate to
7 a rate lower than the next lower rate which would have applied to the employer for
8 the following calendar year. Any contributions in excess of the amount required to
9 reduce an employer's rate to the extent permitted under this paragraph shall be
10 applied against any outstanding liability of the employer, or if there is no such
11 liability shall be refunded to the employer or established as a credit, without interest,
12 against future contributions payable by the employer, at the employer's option.

13 **SECTION 22.** 108.18 (7) (h) of the statutes is amended to read:

14 108.18 (7) (h) The department shall establish contributions other than those
15 required by this section and s. 108.19 (1) and (1e) and contributions other than those
16 submitted during the month of November or authorized under par. (f) or (i) 2. as a
17 credit, without interest, against future contributions payable by the employer or
18 shall refund the contributions at the employer's option.

19 **SECTION 23.** 108.18 (7) (i) and (j) of the statutes ~~are~~ ^{is} created to read: +

20 108.18 (7) (i) 1. An employer that suffers physical damage to its business
21 caused by a catastrophic event for which the employer is not primarily responsible,
22 and incurs benefit charges to its account for layoffs due to that damage may, by
23 means of a voluntary contribution under par. (a), increase the employer's reserve
24 percentage to no greater than the reserve percentage that would have applied to the
25 employer as of the next computation date had that damage not caused the employer

BILL

1 to lay off its employees. An employer that makes a voluntary contribution under this
2 subdivision shall notify the department of its election to have its contribution treated
3 in the manner provided in this paragraph and shall submit proof, in the form and
4 manner prescribed by the department, to establish that its employees were laid off
5 due to the catastrophic event.

6 2. If an employer makes a payment under subd. 1. after November 30 and
7 before November 1 of the succeeding year, the department shall establish the
8 payment as a credit ~~and apply the payment as a voluntary contribution~~ to the employer's account when the
9 next rate computation occurs. Any amount paid to the department in excess of the
10 amount that may be applied under subd. 1 in any year may continue to be held as
11 a credit, without interest, against future required or voluntary contributions for a
12 calendar year or refunded to the employer, at the employer's option.

13 (j) The department shall not establish a payment by an employer under this
14 subsection as a credit to be applied to the employer's account against future
15 contributions for a calendar year until the contributions become due.

SECTION 24. Nonstatutory provisions.

16 (1) CERTAIN BENEFIT PAYMENTS VALIDATED. Notwithstanding section 108.04 (16),
17 2007 stats., if any unemployment insurance claimant who was enrolled in training
18 approved under the federal workforce investment act, 29 USC 2822, received
19 benefits concurrently with that enrollment during the period beginning on or after
20 August 23, 2009, and ending on the day before the time that the treatment of section
21 108.04 (16) of the statutes by this act initially applies, and the claimant was
22 otherwise eligible to receive the benefits, the payment of benefits to the claimant is
23 valid if the claimant would have qualified to receive the benefits under section 108.04
24 (16) of the statutes, as affected by this act.
25

Kuesel, Jeffery

From: Schwalbe, Tracey L - DWD [Tracey.Schwalbe@dwd.wisconsin.gov]
Sent: Friday, March 12, 2010 11:43 AM
To: Kuesel, Jeffery
Cc: LaRocque, Daniel J - DWD
Subject: UI bill draft LRB 4227/4

Jeff,

One correction for this draft. The applicability date for the approved training charging provision in Section 25 (2) should be with respect to "weeks of unemployment" beginning on October 3, 2010, not "benefit years." We will be able to change over all applicable claims to noncharging as of the same week.

In the narrative for the tribal assurance requirement, you may want to add that the department retains the authority to terminate a tribe's participation in the UI program if the tribe fails to make required payments. I thought legislators may want to know the potential consequence of failure to pay if we do not have an assurance, but I understand that whether you put that in the analysis is up to you.

Thanks for all your work on this.
Tracey