

**D19-19**  
**Department Reports to Legislature**

Date: June 20, 2019  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE**  
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**1. Description of Proposed Change**

Currently, the Department must submit a statement regarding the unemployment insurance financial outlook to the Governor and the Legislature by April 15 of every odd-numbered year.<sup>1</sup> The statement includes financial projections of the unemployment insurance trust fund, such as benefit payments and tax collections. The statement must also project whether the Department will need to borrow federal funds to pay benefits. The statement must include the proposed changes to the unemployment insurance law as well as projections regarding the effect of those changes on the trust fund.

By May 15 of each odd-numbered year, the Department must submit a report “summarizing the deliberations of the council on unemployment insurance and the position of the council, if any, concerning each proposed change in the unemployment insurance laws submitted under [section 16.48(1)(a)].”<sup>2</sup> This report is sometimes referred to as the “UIAC Activities Report.” When the Governor receives the Department’s report and statement, the Governor may convene a committee to review the report and statement.<sup>3</sup> The committee then recommends a course of action on the proposals.

In 1983, in response to a severe recession in the early 1980s, Governor Anthony Earl appointed a “Special Unemployment Compensation Study Committee” tasked with conducting a thorough review of the process for UI policy development in Wisconsin and methods to keep the

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<sup>1</sup> Wis. Stat. § 16.48(1)(a).

<sup>2</sup> Wis. Stat. § 16.48(1)(b).

<sup>3</sup> Wis. Stat. § 16.48(2).

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Legislature informed of the status of the UI Trust Fund.<sup>4</sup> The changes recommended by the committee were adopted in 1983 Wis. Act 388 and enacted May 1, 1984.

1983 Wis. Act 388 created a statutory requirement that the Department submit a statement of unemployment insurance financial outlook to the Governor and Legislative Leadership every two years. 1983 Wis. Act 388 also contained a provision that required the Secretary to submit, along with the financial outlook statement, a report summarizing the deliberations of the council on unemployment insurance and the position of the Council, if any, concerning each proposed change in unemployment insurance law included in the financial outlook.

Early versions of the UIAC Activities Report included Council meeting agendas and minutes; summarized the public hearing comments received by the Council; and documented all matters on which the Council voted during the reporting period. Later versions of the UIAC Activities Report shifted to summarizing proposed law changes to the UI program that were approved by the Council for recommendation to the Legislature, as well as documenting the Council's current position on legislative provisions pending with the Council at the time the report was submitted (regardless of whether the pending item originated from the Council, the Governor, the Legislature, or the Department).

The early versions of the financial outlook statement and the UIAC Activities Report, and the recommended law changes included in the reports, served in many ways as supporting documents for the UIAC agreed bill by detailing the analysis and rationale behind the recommended law changes. The legislative recommendations in the financial outlook were endorsed by the Council; however, both sides of the Council could express their stance on areas of the legislative package they felt could have been improved.

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<sup>4</sup> One of the committee members was future Gov. Thompson.

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2013 Wis. Act 36 modified the due dates of the financial outlook and UIAC activities reports, resulting in staggered deadlines of April 15 and May 15 respectively (as opposed to concurrently as had been required previously).

The Governor typically introduces the budget bill to the Legislature in February of each odd-numbered year, while the Council typically introduces its law change proposals to the Legislature in the fall of odd-numbered years or no later than January of the even-numbered year. Based on this schedule, the Department proposes to change the date for the submission of the financial outlook report to May 31 of every even-numbered year, beginning in 2020. The Department proposes to submit this report to the UIAC and the Governor. This will provide the Governor and UIAC time to review the health of the unemployment insurance Trust Fund before the biennial budget bill is submitted to the Legislature and for the UIAC to consider any recommendations contained in the financial outlook report for inclusion in the UIAC agreed bill.

The UIAC Public Hearing is typically held in the autumn of even-numbered years. Completing the financial outlook by May 31 of the even-numbered years provides the public with an understanding of the health of the Trust Fund before the public hearing, and an opportunity to suggest changes to the unemployment law regarding the Trust Fund at the public hearing. So, the Department also proposes to codify the existing practice of posting the financial outlook report on its website.

The Department proposes to repeal section 16.48(1)(a)5., which requires the Department to explain why significant cash reserves should be retained in the unemployment trust fund, if those reserves exist. Federal unemployment law includes the “withdrawal standard,” which permits, with few exceptions, the withdrawal of funds from the Trust Fund only for the payment

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of unemployment benefits.<sup>5</sup> Because the Trust Fund may only be used for the payment of unemployment benefits, the cash reserves in the Trust Fund must always be retained for that purpose. And, maintaining a large Trust Fund balance results in lower taxes for employers and ensures that funds are available to pay benefits.

The Department proposes to amend section 16.48(1)(a)6., which requires the Department to explain why it is not proposing to liquidate any unemployment insurance program debt. The amended statute would instead require the Department to propose methods to liquidate the debt. The purpose of this change is to provide options to reduce or eliminate any unemployment insurance program debt.

The Department further proposes to repeal section 16.48(2), which permits the Governor to convene a special committee to review the financial outlook report and attempt to reach a consensus regarding proposed changes to the unemployment insurance law. It appears that a special committee described in this section has not been convened since the 1980s. The Governor could, at any time, convene a special committee described in this section by executive order.

The Department also recommends that the deadline for the UIAC Activities Report be changed to January 31 of every even-numbered year. The intent of this change is that the UIAC Activities Report (together with the financial outlook report) would be submitted to the Governor and the Legislature contemporaneously with the Council's Agreed Bill. This report would, in most biennia, be submitted earlier than January 31 of the even-numbered year because the Agreed Bill is typically introduced before January 31 of the even-numbered year.

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<sup>5</sup> 26 USC § 3304(a)(4); 42 USC § 503(a)(5).

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**2. Proposed Statutory Change**

**Section 16.48 of the statutes is amended to read:**

(1)

(a) No later than ~~April 15~~ May 31 of each ~~odd-numbered~~ even-numbered year, the secretary of workforce development shall prepare and furnish to the governor, ~~the speaker of the assembly, the minority leader of the assembly, and the majority and minority leaders of the senate~~ and the council on unemployment insurance a statement of unemployment insurance financial outlook, which shall contain the following, together with the secretary's recommendations and an explanation for such recommendations:

1. Projections of unemployment insurance operations under current law through at least the 2nd year following the close of the biennium, including benefit payments, tax collections, borrowing or debt repayments and amounts of interest charges, if any.
2. Specific proposed changes, if any, in the laws relating to unemployment insurance financing, benefits and administration.
3. Projections specified in subd. 1. under the proposed laws.
4. The economic and public policy assumptions upon which the projections are based, and the impact upon the projections of variations from those assumptions.
- ~~5. If significant cash reserves in the unemployment reserve fund are projected throughout the forecast period, a statement giving the reasons why the reserves should be retained in the fund.~~
6. If unemployment insurance program debt is projected at the end of the forecast period, ~~the reasons why it is not proposed~~ methods to liquidate the debt.

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~~(b) No later than May 15 of each odd-numbered year, the secretary of workforce development shall prepare and furnish to the governor, the speaker of the assembly, the minority leader of the assembly, and the majority and minority leaders of the senate a report summarizing the deliberations of the council on unemployment insurance and the position of the council, if any, concerning each proposed change in the unemployment insurance laws submitted under par. (a).~~

~~(2) Upon receipt of the statement and report under sub. (1), the governor may convene a special committee consisting of the secretary of workforce development and the legislative leaders specified in sub. (1) to review the statement and report. Upon request of 2 or more of the legislative leaders specified in sub. (1), the governor shall convene such a committee. The committee shall attempt to reach a consensus concerning proposed changes to the unemployment insurance laws and shall submit its recommendations to the governor and legislature concurrently with the statement furnished under sub. (3).~~

~~(3) No Biennially, no later than June 15 January 31 of each ~~odd-numbered~~ even-numbered year, the secretary of workforce development, ~~under the direction of the governor,~~ shall submit to ~~each member of the legislature an updated~~ the governor, the speaker of the assembly, the minority leader of the assembly, and the majority and minority leaders of the senate and the council on unemployment insurance ~~the statement of unemployment insurance financial outlook created under which shall contain the information specified in~~ sub. (1) (a), together with ~~the governor's recommendations and an explanation for such recommendations, and a copy of the report required under sub. (1) (b)~~ a report summarizing the deliberations of the council on unemployment insurance and the~~

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position of the council, if any, concerning each proposed change in the unemployment insurance laws submitted under sub. (1).

(4) The department of workforce development shall post the most recent version of the reports created under this section on its internet website.

**3. Effects of Proposed Change**

- a. **Policy.** The proposed change will result in changes to the dates by which certain reports must be submitted to the Governor and Legislature, to better facilitate the legislative process.
- b. **Administrative.** None expected.
- c. **Fiscal.** No fiscal effect is expected.

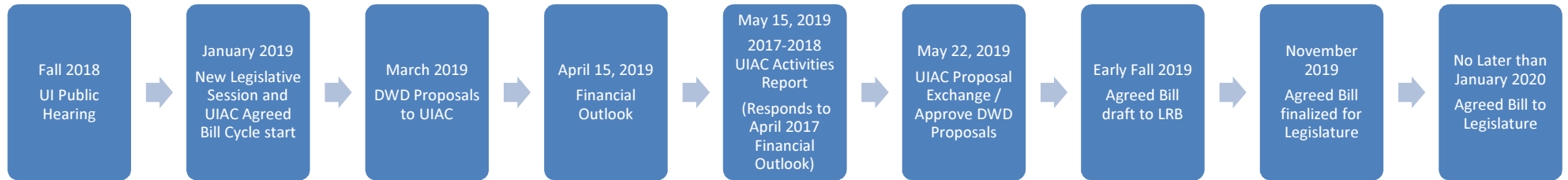
**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

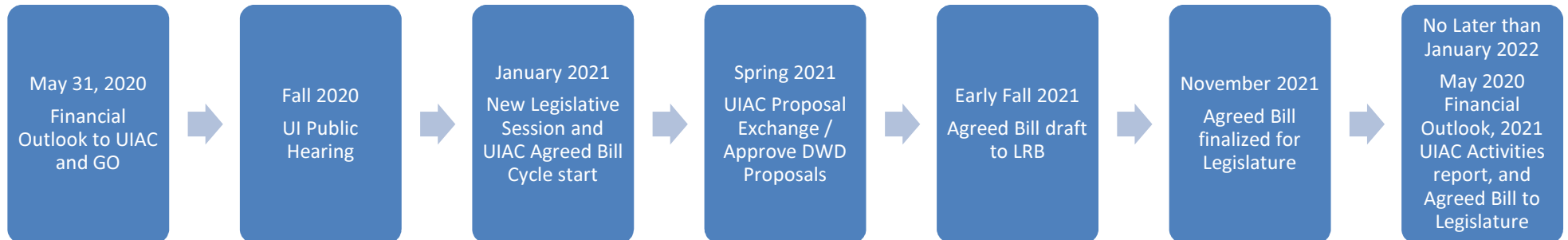
**5. Proposed Effective/Applicability Date**

This proposal would be effective February 1, 2020.

## Current Timeline



## Proposed Timeline





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**FISCAL ANALYSIS OF PROPOSED LAW CHANGE**

**UI Trust Fund Impact:**

This proposal would not impact the UI Trust Fund.

**IT and Administrative Impact:**

This proposal does not have any one-time IT or administrative impacts.

**Summary of Proposal:**

Currently, the Department must submit the Financial Outlook to the Governor and Legislature by April 15 of every odd-numbered year and the UIAC Activities Report by May 15 of every odd-numbered year. This law change proposes changing the submission date of the Financial Outlook to May 31 of every even-numbered year, and the submission date of the UIAC Activities Report to January 31 of every even-numbered year to better facilitate the legislative process. This proposal also makes changes to the report requirements to better support the functions of these reports.

**UI Trust Fund Methodology:**

This proposal would not impact the UI Trust Fund.

The proposed change will result in changes to the dates by which certain reports must be submitted to the Governor and Legislature to better facilitate the legislative process.

**IT and Administrative Impact Methodology:**

This proposal does not have any one-time IT or administrative impacts.