



Unemployment Insurance Advisory Council

Meeting

November 19, 2020, 10:00 a.m. – 2:00 p.m.

The public may attend by teleconference:

Phone: 415-655-0003 or 855-282-6330 (toll free) or [WebEx](#)
Meeting Number (Access Code): 145 834 6798 Meeting Password: DWD1

Agenda

1. Call to Order and Introductions
2. Approval of Minutes of the October 15, 2020 Council Meeting
3. Department Update
4. Trust Fund Update – Tom McHugh
5. Governor Evers' COVID-19 Legislative Package (LRB-6522)
6. Public Hearing Report
7. Rulemaking Update
 - [Emergency Rule 2006](#), DWD Chs. 127 & 128 (Eff. 5/9/20 – 2/2/21)
 - Work search actions, availability for work, and work available for people filing claims with the unemployment insurance program during the COVID-19 pandemic.
 - [Emergency Rule 2011](#), DWD Ch. 113 (Eff. 6/5/20 - 12/31/20)
 - Waiving interest in limited circumstances for employers subject to reimbursement financing when reimbursements are delinquent due to COVID-19.
 - [Emergency Rule 2018](#), DWD Ch. 102 (Eff. 6/29/20 – 1/24/21)
 - Employer contribution rates for 2021.

- [Emergency Rule 2034](#), DWD Ch. 120 (Eff. 11/2/20 - 3/31/21)
 - Providing notification of the availability of unemployment insurance to employees at the time of separation from employment.
 - Proposed Emergency Rule – DWD Ch. 123
 - Benefit charges for initial claims related to the public health emergency declared by Executive Order 72.
8. Research Requests
9. Future Meeting Dates
- January 21, 2021
 - February 18, 2021
 - March 18, 2021
10. Adjourn

Notice

- ❖ The Council may take up action items at a time other than that listed.
- ❖ The Council may not address all agenda items or follow the agenda order. The Council may discuss other items, including those on any attached lists.
- ❖ The Council members may attend the meeting by telephone.
- ❖ The employee or employer representative members of the Council may convene in closed session at any time during the meeting to deliberate any matter for potential action or items posted in this agenda, under Wis. Stat. § 19.85(1)(ee). The Council may thereafter reconvene again in open session after completion of the closed session.
- ❖ This location is accessible to persons with disabilities. If you need assistance (such as an interpreter or information in an alternate format), please contact Robin Gallagher, Unemployment Insurance Division, at 608-267-1405 or dial 7-1-1 for Wisconsin Relay Service.
- ❖ Today's meeting materials will be available online when the meeting is scheduled to begin at: <https://dwd.wisconsin.gov/uibola/uiac/meetings.htm>

UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

Meeting Minutes

Offices of the State of Wisconsin Department of Workforce Development
201 E. Washington Avenue, GEF 1, Madison, WI

October 15, 2020

Held Via Teleconference Due to Public Health Emergency

The meeting was preceded by public notice as required under Wis. Stat. § 19.84.

Members: Janell Knutson (Chair), Scott Manley, Mike Gotzler, John Mielke, Susan Quam, Sally Feistel, Shane Griesbach, Terry Hayden, and Dennis Delie.

Department Staff: Mark Reihl, Andrew Rubsam, Jim Moe, Danielle Williams (Assistant Deputy Secretary), Pamela McGillivray (Chief Legal Counsel), Jennifer Wakerhauser (Deputy Legal Counsel), Tom McHugh, Mary Jan Rosenak, Pam James, Jason Schunk, Emily Savard, Mike Myszewski, Patrick Lonergan, Joe Brockman, and Robin Gallagher.

Members of the Public: Anita Krasno (General Counsel, Labor & Industry Review Commission), BJ Dernbach (office of Representative Warren Petryk), Mary Beth George (office of Representative Sinicki), Chris Reader (Wisconsin Manufacturers & Commerce), Victor Forberger (Attorney, Wisconsin UI Clinic).

1. Call to Order and Introduction

Ms. Knutson called the Unemployment Insurance Advisory Council to order at 10:03 am, under the Wisconsin Open Meetings Law. Attendance was taken by roll call, and Ms. Knutson acknowledged the department staff in attendance.

2. Approval of Minutes

Motion by Ms. Feistel, second by Mr. Manley, to approve the minutes of the August 20, 2020 meeting without correction. The vote was taken by roll call and passed unanimously.

3. Department Update

Mr. Reihl announced that Amy Banicki is leaving her position as Deputy Administrator effective October 30, 2020, to take a position with the National Association of State Workforce Agencies. Mr. Reihl stated that Ms. Banicki will be greatly missed and asked all Council members to join him in wishing Ms. Banicki the best.

Mr. Reihl stated that the Call Centers are operating at full strength. Call wait times are less than one minute.

Mr. Reihl stated that, from March of 2020 through October 10, 2020, the department has paid 532,371 claimants \$3.9 billion in UI benefits. The department has resolved 91.8% of weekly claims.

Mr. Reihl reported that, as of October 12, 2020, there were 400 active work share plans, with 12,261 participants.

Mr. Reihl stated the Lost Wage Assistance Program was established by executive order of the President and is being administered by FEMA. Claimants who are unemployed due to Covid-19 will receive an additional \$300.00 per week in UI benefits, retroactive to August 1, 2020. The department will pay benefits for the weeks ending on August 1st, 8th, 15th, 22nd, 29th and September 5th.

4. Trust Fund Update

Mr. McHugh reported that, as of October 10, 2020, \$1.2 billion in regular UI benefits has been paid.

Mr. McHugh stated that all UI payments, both state and federal, exceeded \$4.0 billion for the year. A total of 546,875 claimants have been paid.

Mr. McHugh stated the federal pandemic assistance programs have paid the following to Wisconsin claimants:

FPUC: \$2.5 billion

PUA: \$137.1 million

PEUC: \$63.3 million

Mr. McHugh reported that tax receipts total \$432.3 million for the year, down \$41.1 million, or 8.7%.

Mr. McHugh stated that tax rates will be lower for most employers next year.

Mr. McHugh stated that UI trust fund cash balance is \$1.26 billion. The trust fund has earned \$30.7 million in interest this year, at a 2.3% interest rate.

Mr. Reihl asked what the estimates are for the Interest and Penalty Account.

Mr. McHugh stated that the Interest and Penalty Account goes to the General Fund for UI purposes. There was \$18 million in the account as of September 30th. Current estimates are that Act 185 will have an \$85 million effect on the account. In addition, annual Interest and Penalty receipts are \$3.5 million to \$4.0 million per year. The account will have a deficit of \$67 million. It will take at least 20 years to pay off the \$67 million.

5. Rulemaking Update

Emergency Rule 2006, DWD Chapters. 127 and 128

Ms. Knutson stated that the Department will seek a 60-day extension of this emergency rule. Ms. Knutson stated that the members have been provided with a letter from Deputy Secretary Robert Cherry requesting the support of the Council in seeking the 60-day extension.

Mr. Hayden, Mr. Delie, Ms. Feistel and Mr. Griesbach all spoke in favor of the 60-day emergency rule extension.

Mr. Manley stated that he supports extension of the rule. Mr. Manley stated that the manufacturing sector is struggling to find workers, similar to the situation that existed pre-Covid-19. Mr. Manley stated that employers are at a point where businesses need workers.

Ms. Quam stated that restaurant owners cannot find workers. Ms. Quam stated that she supports the 60-day extension, but wishes that the rule could be applied by geographic region.

Mr. Gotzler and Mr. Mielke both spoke in support in support of the 60-day rule extension.

Mr. Delie moved, second by Ms. Feistel, that the Council support the extension of Emergency Rule 2006. The vote was taken by roll call and the motion passed unanimously.

Emergency Rule 2011, DWD Chapter 113

Mr. Rubsam stated that Emergency Rule 2011 relates to waiving interest in limited circumstances for employers subject to reimbursement financing when reimbursements are delinquent due to the Covid-19 pandemic. This emergency rule expires on December 31, 2020.

Emergency Rule 2018, DWD Chapter 102

Mr. Rubsam stated Emergency Rule 2018, relating to employer contribution rates for 2021, expires on November 25, 2020. A request for a 60-day extension of this emergency rule has been filed with JCRAR, which so far has taken no action.

Emergency Rule 2034, DWD Chapter 120

Mr. Rubsam stated that this rule requires employers to give notice to employees of the availability of Unemployment Insurance at the time of separation from employment. This rule will go into effect on November 2, 2020 and will expire on March 31, 2021. A public hearing will be held on this rule on November 10, 2020. A copy of the hearing notice is included in the packet.

Scope Statement

Ms. Knutson stated that Act 185 created charging relief for employers for UI benefits for initial claims related to the public health emergency, declared by Executive Order 72. Benefit claims are charged to the Balancing Account and the Interest and Penalty Appropriation. Reimbursable employers will not have to pay the dollar for dollar reimbursement for benefits, since the federal government is paying half the cost. Contribution employers will not experience higher tax rates.

Executive Order 72 was in effect from March 12 to May 11, 2020. So far, the Department has not required employers to submit a form requesting charging relief for Initial Claims filed between March 15 to May 16, 2020.

Act 185 provides a framework for charging relief for employers. The Department has identified areas requiring clarification and is considering promulgating an administrative rule to address those areas.

If the department decides to pursue an emergency rule, the scope statement will need to be filed before the November Council meeting. The Scope Statement is a brief description of what the Department plans to do. A rule cannot be created until a Scope Statement is filed and approved.

6. Research Requests

No research requests were made.

7. Future Meeting Dates

Ms. Knutson stated that the next regular meeting date is November 19, 2020. There will be no meeting in December.

8. Public Hearing

Ms. Knutson stated that Public Hearings are scheduled on the following dates:

Monday, November 9, 2020 2:00 pm to 4:00 pm

Tuesday, November 10, 2020 4:30 pm to 6:30 pm

Mr. Gotzler requested that at the next meeting he would like a presentation on the UI Trust Fund balance projections.

Ms. Knutson responded that in the spring of 2021 the Department will prepare a financial outlook report. Ms. Knutson stated that no one is projecting at the present time that the Trust Fund will run out of money.

Mr. Gotzler withdrew his request because of the upcoming financial outlook report in March.

Mr. Reihl stated that Wisconsin is doing well in comparison to other states.

9. Adjourn

Motion by Ms. Feistel, second by Mr. Delie, to adjourn. The motion passed unanimously, and the meeting was adjourned at 10:46 am.

UI Reserve Fund Highlights

November 19, 2020

- Regular UI benefit payments through November 14 total \$1.3 billion, an increase of \$990.4 million or 303.9% when compared to benefits paid through the same week in 2019.

Benefits Paid	2020 YTD* <i>(in millions)</i>	2019 YTD* <i>(in millions)</i>	Change <i>(in millions)</i>	Change <i>(in percent)</i>
Total Regular UI Paid**	\$1,316.3	\$325.9	\$990.4	303.9%

***Total Regular UI Paid includes payments funded by employers through the UI Trust Fund. It excludes benefits funded and reimbursed to the state by the federal government and reimbursable employers.*

Claimants have been paid over \$4.3 billion in a combination of federal and state programs since the beginning of the year.

There have been 565,448 claimants paid this year. Since 1984, only 2009 had more claimants (566,353 for the entire year). In comparison, for calendar year 2018 and 2019, the number of claimants paid were 130,710 and 129,888, respectively.

The federal programs include:

Program	Benefits Paid
Federal Pandemic Unemployment Compensation (FPUC)	\$2.6 billion
Pandemic Unemployment Assistance (PUA)	\$162.5 million
Pandemic Emergency Unemployment Compensation (PEUC)	\$101.9 million
Lost Wage Assistance (LWA)	\$193.6 million

FPUC was the additional \$600 per week benefit which expired the week ending July 25, 2020.

PUA will expire 12/26/20. It provides up to 39 weeks of unemployment benefits to individuals who are not eligible for regular UI such as:

- Individuals who are self-employed;
- Certain independent contractors;
- Individuals with limited recent work history; and
- Other workers not covered by Regular UI.

PEUC will expire 12/26/20. It provides up to 13 additional weeks of payments to individuals who have exhausted their regular UI benefits.

LWA is the Federal Emergency Management Agency (FEMA) program that provided an additional \$300 per week to eligible claimants unemployed or partially unemployed due to disruptions caused by COVID-19. LWA pays up to six weeks for the weeks of unemployment July 26 through September 5, 2020.

**All calendar year-to-date (YTD) numbers are through November 14, 2020 and a comparable 2019 period. The Financial statements for October are not yet final as of this meeting date.*

2. Tax receipts through November 14, declined by \$52.9 million or 9.6% when compared to tax receipts through the same period in 2019. Since both tax years were rated in Schedule D, any change reflects the anticipated reduction in taxes based on improvement of employer's experience but also a reduction in taxable wages.

Tax Receipts	2020 YTD* <i>(in millions)</i>	2019 YTD* <i>(in millions)</i>	Change <i>(in millions)</i>	Change <i>(in percent)</i>
Total Tax Receipts	\$495.7	\$548.6	(\$52.9)	(9.6%)

3. The trust fund cash balance on November 10 was \$1.2 billion.

**All calendar year-to-date (YTD) numbers are through November 14, 2020 and a comparable 2019 period. The Financial statements for October are not yet final as of this meeting date.*

FINANCIAL STATEMENTS

For the Month Ended September 30, 2020



Unemployment Insurance Division

Bureau of Tax and Accounting

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
BALANCE SHEET
FOR THE MONTH ENDED September 30, 2020

<u>ASSETS</u>	<u>CURRENT YEAR</u>	<u>PRIOR YEAR</u>
CASH:		
U.I. CONTRIBUTION ACCOUNT	6,204.56	333,734.47
U.I. BENEFIT ACCOUNTS	(7,031,125.35)	(1,096,232.07)
U.I. TRUST FUND ACCOUNTS (1) (2) (3)	<u>1,334,083,933.46</u>	<u>1,958,154,422.29</u>
TOTAL CASH	<u>1,327,059,012.67</u>	<u>1,957,391,924.69</u>
ACCOUNTS RECEIVABLE:		
BENEFIT OVERPAYMENT RECEIVABLES	78,982,994.13	70,467,987.95
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(30,353,152.73)</u>	<u>(33,223,947.68)</u>
NET BENEFIT OVERPAYMENT RECEIVABLES	48,629,841.40	37,244,040.27
TAXABLE EMPLOYER RFB & SOLVENCY RECEIV (5) (6)	30,918,464.25	31,819,181.44
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(16,195,193.18)</u>	<u>(15,709,818.13)</u>
NET TAXABLE EMPLOYER RFB & SOLVENCY RECEIV	14,723,271.07	16,109,363.31
OTHER EMPLOYER RECEIVABLES	60,037,070.69	21,952,033.59
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS	<u>(9,230,594.10)</u>	<u>(7,879,250.46)</u>
NET OTHER EMPLOYER RECEIVABLES	50,806,476.59	14,072,783.13
TOTAL ACCOUNTS RECEIVABLE	<u>114,159,589.06</u>	<u>67,426,186.71</u>
TOTAL ASSETS	<u><u>1,441,218,601.73</u></u>	<u><u>2,024,818,111.40</u></u>
<u>LIABILITIES AND EQUITY</u>		
LIABILITIES:		
CONTINGENT LIABILITIES (7)	39,636,581.63	27,329,012.14
OTHER LIABILITIES	14,992,320.77	12,820,153.94
FEDERAL BENEFIT PROGRAMS	(5,520,052.86)	183,083.23
CHILD SUPPORT HOLDING ACCOUNT	121,102.00	31,619.00
FEDERAL WITHHOLDING TAXES DUE	990,986.00	149,818.00
STATE WITHHOLDING TAXES DUE	42,207,664.46	1,582,392.65
DUE TO OTHER GOVERNMENTS (8)	<u>351,392.84</u>	<u>367,448.69</u>
TOTAL LIABILITIES	92,779,994.84	42,463,527.65
EQUITY:		
RESERVE FUND BALANCE	1,758,897,774.35	2,428,043,874.77
BALANCING ACCOUNT	<u>(410,459,167.46)</u>	<u>(445,689,291.02)</u>
TOTAL EQUITY	<u>1,348,438,606.89</u>	<u>1,982,354,583.75</u>
TOTAL LIABILITIES AND EQUITY	<u><u>1,441,218,601.73</u></u>	<u><u>2,024,818,111.40</u></u>

1. \$20,224,311 of this balance is for administration purposes and is not available to pay benefits.
2. \$2,139,035 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.
3. \$50,545,800 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-52/20 per 2103 of the CARES Act.
4. The allowance for uncollectible benefit overpayments is 50.2%. The allowance for uncollectible delinquent employer taxes is 46.3%. This is based on the historical collectibility of our receivables. This method of recognizing receivable balances is in accordance with generally accepted accounting principles.
5. The remaining tax due at the end of the current month for employers utilizing the 1st quarter deferral plan is \$1,260,054. Deferrals for the prior year were \$652,801.
6. \$10,751,147, or 34.8%, of this balance is estimated.
7. \$25,926,381 of this balance is net benefit overpayments which, when collected, will be credited to a reimbursable or federal program. \$13,710,201 of this balance is net interest, penalties, SAFI, and other fees assessed to employers and penalties and other fees assessed to claimants which, when collected, will be credited to the state fund.
8. This balance includes SAFI Payable of \$7,258. The 09/30/2020 balance of the Unemployment Interest Payment Fund (DWD Fund 214) is \$25,773. Total Life-to-date transfers from DWD Fund 214 to the Unemployment Program Integrity Fund (DWD Fund 298) were \$9,501,460.

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
RESERVE FUND ANALYSIS
FOR THE MONTH ENDED September 30, 2020

	<u>CURRENT ACTIVITY</u>	<u>YTD ACTIVITY</u>	<u>PRIOR YTD</u>
BALANCE AT BEGINNING OF MONTH/YEAR:			
U.I. TAXABLE ACCOUNTS	2,283,702,422.10	2,909,863,506.12	2,794,896,813.36
BALANCING ACCOUNT	<u>(861,797,568.67)</u>	<u>(916,159,078.07)</u>	<u>(1,030,187,761.19)</u>
TOTAL BALANCE	1,421,904,853.43	1,993,704,428.05	1,764,709,052.17
INCREASES:			
TAX RECEIPTS/RFB PAID	1,095,175.94	307,432,290.24	339,570,299.07
ACCRUED REVENUES	(160,313.99)	3,605,551.70	2,656,960.94
SOLVENCY PAID	249,218.24	123,219,808.88	131,790,457.62
FORFEITURES	1,338.00	93,595.72	30,587.00
BENEFIT CONCEALMENT INCOME	17,857.29	424,147.10	536,840.16
INTEREST EARNED ON TRUST FUND	8,304,075.67	30,729,457.20	32,806,064.13
FUTA TAX CREDITS	126.00	4,636.60	17,335.91
OTHER CHANGES	12,149,117.14	69,926,651.29	310,084.80
TOTAL INCREASES	<u>21,656,594.29</u>	<u>535,436,138.73</u>	<u>507,718,629.63</u>
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	76,714,862.54	994,696,258.05	245,381,354.71
QUIT NONCHARGE BENEFITS	14,851,391.79	157,159,358.41	35,458,969.05
OTHER DECREASES	673,697.82	1,078,745.07	(2,379,957.28)
OTHER NONCHARGE BENEFITS	2,882,888.68	27,767,598.36	11,612,731.57
TOTAL DECREASES	<u>95,122,840.83</u>	<u>1,180,701,959.89</u>	<u>290,073,098.05</u>
BALANCE AT END OF MONTH/YEAR:			
RESERVE FUND BALANCE	1,758,897,774.35	1,758,897,774.35	2,428,043,874.77
BALANCING ACCOUNT	<u>(410,459,167.46)</u>	<u>(410,459,167.46)</u>	<u>(445,689,291.02)</u>
TOTAL BALANCE (9) (10) (11) (12)	<u><u>1,348,438,606.89</u></u>	<u><u>1,348,438,606.89</u></u>	<u><u>1,982,354,583.75</u></u>

9. This balance differs from the cash balance related to taxable employers of \$1,314,759,048 because of non-cash accrual items.

10. \$20,224,311 of this balance is set up in the Trust Fund in three subaccounts to be used for administration purposes and is not available to pay benefits.

11. \$2,139,035 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

12. \$50,545,800 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-52/20 per 2103 of the CARES Act.

**DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
RECEIPTS AND DISBURSEMENTS STATEMENT
FOR THE MONTH ENDED 09/30/20**

RECEIPTS

	CURRENT ACTIVITY	YEAR TO DATE	PRIOR YEAR TO DATE
TAX RECEIPTS/RFB	\$1,095,175.94	\$307,432,290.24	\$339,570,299.07
SOLVENCY	249,218.24	123,219,808.88	131,790,457.62
ADMINISTRATIVE FEE	79.38	446.76	708.37
ADMINISTRATIVE FEE - PROGRAM INTEGRITY	4,567.61	2,826,518.33	2,927,744.41
UNUSED CREDITS	(352,710.77)	1,777,621.03	4,055,215.55
GOVERNMENTAL UNITS	8,614,128.10	48,651,064.05	8,093,917.09
NONPROFITS	5,751,943.45	54,951,586.88	7,927,530.14
INTERSTATE CLAIMS (CWC)	3,187,674.58	5,297,878.62	3,648,120.25
ERROR SUSPENSE	(14,102.68)	23,821.79	(1,214.40)
FEDERAL PROGRAMS RECEIPTS	149,327,724.02	2,626,250,027.57	(258,072.38)
OVERPAYMENT COLLECTIONS	4,106,891.04	21,830,745.76	13,932,526.95
FORFEITURES	1,338.00	93,595.72	30,587.00
BENEFIT CONCEALMENT INCOME	17,857.29	424,147.10	536,840.16
EMPLOYER REFUNDS	(469,562.68)	(3,274,119.03)	(4,203,690.13)
COURT COSTS	22,019.00	265,357.02	359,125.84
INTEREST & PENALTY	241,471.74	2,658,993.73	2,786,232.77
CARD PAYMENT SERVICE FEE	1,935.00	12,852.36	3,363.12
BENEFIT CONCEALMENT PENALTY-PROGRAM INTEGRITY	23,829.44	666,493.94	806,823.10
MISCLASSIFIED EMPLOYEE PENALTY-PROG INTEGRITY	531.55	5,184.98	26,038.64
LEVY NONCOMPLIANCE PENALTY-PROGRAM INTEGRITY	5,375.70	15,437.20	0.00
SPECIAL ASSESSMENT FOR INTEREST	4,371.59	17,505.26	16,665.90
EMERGENCY ADMIN GRANT-EUISAA 2020	0.00	18,914,772.00	0.00
EMERGENCY UC RELIEF (EUR)	12,032,400.00	50,545,800.00	0.00
INTEREST EARNED ON U.I. TRUST FUND BALANCE	8,304,075.67	30,729,457.20	32,806,064.13
MISCELLANEOUS	59,004.27	182,182.58	60,966.11
TOTAL RECEIPTS	\$192,215,235.48	\$3,293,519,469.97	\$544,916,249.31

DISBURSEMENTS

CHARGES TO TAXABLE EMPLOYERS	\$81,156,377.24	\$1,015,132,139.74	\$257,274,376.07
NONPROFIT CLAIMANTS	4,631,537.73	71,421,649.34	7,382,611.57
GOVERNMENTAL CLAIMANTS	5,866,445.69	59,763,576.89	7,166,833.10
INTERSTATE CLAIMS (CWC)	1,198,125.63	10,860,649.25	2,966,669.65
QUITS	14,851,391.79	157,159,358.41	35,458,969.05
OTHER NON-CHARGE BENEFITS	2,940,721.89	26,654,399.26	11,947,746.44
CLOSED EMPLOYERS	1,378.67	(211,038.38)	(12,348.84)
FEDERAL PROGRAMS			
FEDERAL EMPLOYEES (UCFE)	180,400.75	1,821,185.96	937,302.34
EX-MILITARY (UCX)	139,535.36	1,184,435.08	308,609.18
TRADE ALLOWANCE (TRA/TRA-NAFTA)	59,288.61	668,899.70	904,432.18
DISASTER UNEMPLOYMENT (DUA)	0.00	0.00	19,310.00
FEDERAL PANDEMIC UC \$600 ADD-ON (FPUC)	99,474,450.48	2,451,946,151.86	0.00
PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA)	29,725,399.00	126,745,227.00	0.00
PANDEMIC EMERGENCY UC (PEUC)	17,206,737.50	51,381,386.50	0.00
2003 TEMPORARY EMERGENCY UI (TEUC)	(576.45)	(16,542.65)	(17,554.12)
FEDERAL ADD'L COMPENSATION \$25 ADD-ON (FAC)	(10,906.61)	(158,539.10)	(215,459.24)
FEDERAL EMERGENCY UI (EUC)	(111,209.74)	(1,541,514.01)	(2,008,280.05)
FEDERAL EXTENDED BENEFITS (EB)	(15,831.44)	(161,011.56)	(151,379.14)
FEDERAL EMPLOYEES EXTENDED BEN (UCFE EB)	0.00	0.00	(1,331.67)
FEDERAL EX-MILITARY EXTENDED BEN (UCX EB)	(80.99)	(2,192.08)	(7,412.17)
INTERSTATE CLAIMS EXTENDED BENEFITS (CWC EB)	(419.08)	(4,226.35)	(1,163.66)
INTEREST & PENALTY	361,168.42	2,693,363.55	2,789,018.31
CARD PAYMENT SERVICE FEE TRANSFER	1,295.20	11,895.07	2,433.44
PROGRAM INTEGRITY	44,835.64	3,556,472.40	3,766,004.59
SPECIAL ASSESSMENT FOR INTEREST	0.00	17,151.12	11,439.97
COURT COSTS	17,418.71	283,988.37	359,124.31
ADMINISTRATIVE FEE TRANSFER	0.00	515.38	718.76
FEDERAL WITHHOLDING	1,061,089.74	(834,188.06)	26,778.00
STATE WITHHOLDING	(6,872,385.00)	(40,466,281.21)	5,095.15
STC IMPLEMENT/IMPROVE & PROMOTE/ENROLL EXP	0.00	0.00	114,151.84
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	582,373.82	582,373.82	0.00
FEDERAL LOAN REPAYMENTS	(126.00)	(4,636.60)	(17,335.91)
TOTAL DISBURSEMENTS	\$252,488,436.56	\$3,938,484,648.70	\$329,009,359.15

NET INCREASE(DECREASE)

	(60,273,201.08)	(644,965,178.73)	215,906,890.16
BALANCE AT BEGINNING OF MONTH/YEAR	\$1,387,332,213.75	\$1,972,024,191.40	\$1,741,485,034.53
BALANCE AT END OF MONTH/YEAR	\$1,327,059,012.67	\$1,327,059,012.67	\$1,957,391,924.69

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
CASH ANALYSIS
FOR THE MONTH ENDED September 30, 2020

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BEGINNING U.I. CASH BALANCE	\$1,388,257,070.85	\$1,960,524,402.01	\$1,730,835,304.79
INCREASES:			
TAX RECEIPTS/RFB PAID	1,095,175.94	307,432,290.24	339,570,299.07
U.I. PAYMENTS CREDITED TO SURPLUS	12,225,440.60	196,780,173.53	134,850,643.04
INTEREST EARNED ON TRUST FUND	8,304,075.67	30,729,457.20	32,806,064.13
FUTA TAX CREDITS	126.00	4,636.60	17,335.91
TOTAL INCREASE IN CASH	<u>21,624,818.21</u>	<u>534,946,557.57</u>	<u>507,244,342.15</u>
TOTAL CASH AVAILABLE	<u>1,409,881,889.06</u>	<u>2,495,470,959.58</u>	<u>2,238,079,646.94</u>
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	76,714,862.54	994,696,258.05	245,381,354.71
BENEFITS CHARGED TO SURPLUS	17,825,604.47	185,433,279.48	47,818,247.44
TOTAL BENEFITS PAID DURING PERIOD	<u>94,540,467.01</u>	<u>1,180,129,537.53</u>	<u>293,199,602.15</u>
SHORT-TIME COMPENSATION EXPENDITURES	0.00	0.00	114,151.84
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	582,373.82	582,373.82	0.00
ENDING U.I. CASH BALANCE (13) (14) (15) (16) (17)	<u><u>1,314,759,048.23</u></u>	<u><u>1,314,759,048.23</u></u>	<u><u>1,944,765,892.95</u></u>

13. \$1,607,328 of this balance was set up in 2009 in the Trust Fund as a subaccount per the ARRA UI Modernization Provisions and is not available to pay benefits.

14. \$284,585 of this balance was set up in 2015 in the Trust Fund as a Short-Time Compensation (STC) subaccount to be used for Implementation and Improvement of the STC program and is not available to pay benefits.

15. \$18,332,398 of this balance was set up in 2020 in the Trust Fund as an Emergency Admin Grant (EUISAA) subaccount to be used for administration of the Unemployment Compensation Program and is not available to pay benefits.

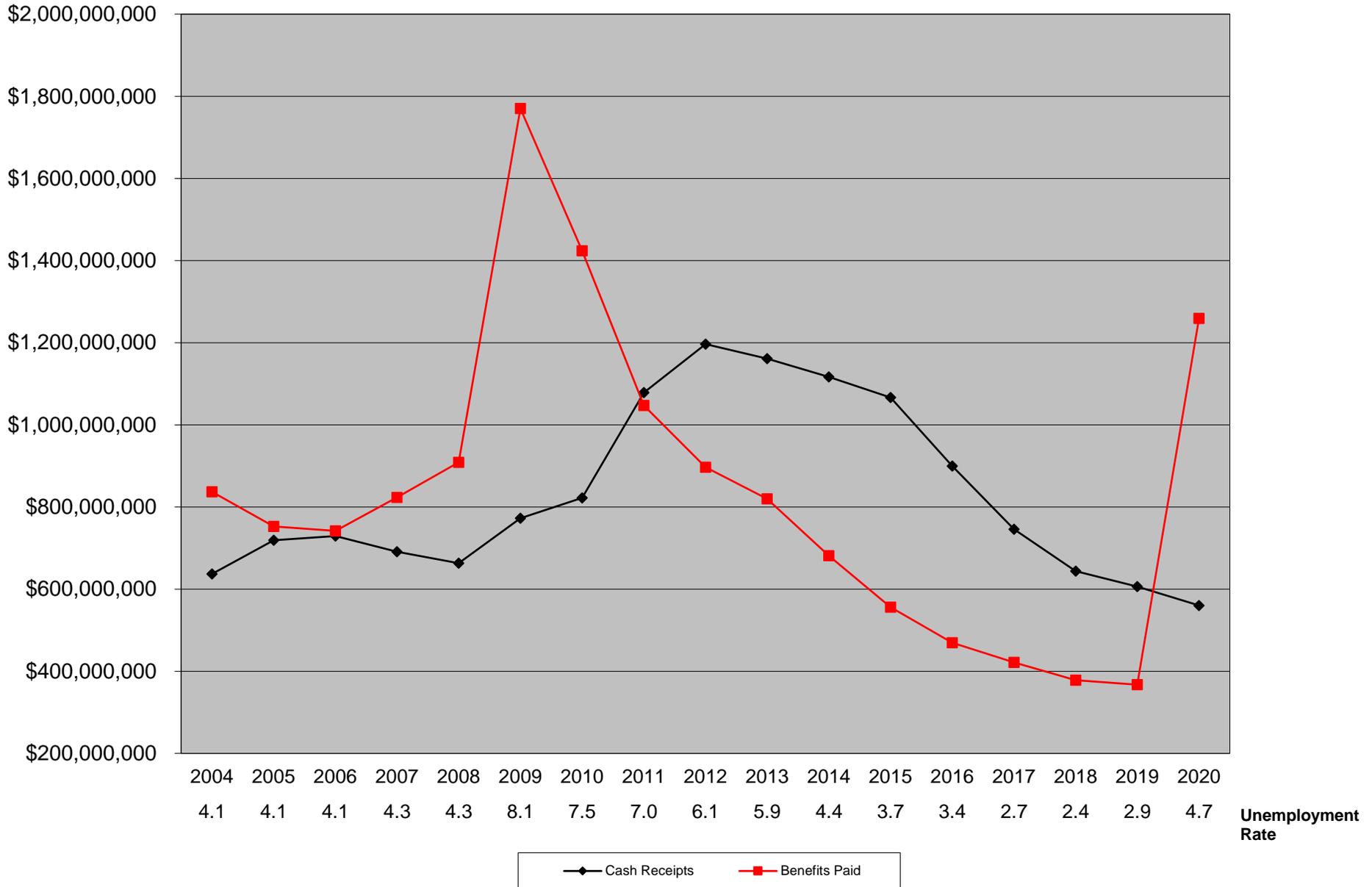
16. \$2,139,035 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

17. \$50,545,800 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-52/20 per 2103 of the CARES Act.

BUREAU OF TAX AND ACCOUNTING
U.I. TREASURER'S REPORT
BALANCING ACCT SUMMARY
FOR THE MONTH ENDED September 30, 2020

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BALANCE AT THE BEGINNING OF THE MONTH/YEAR	(\$446,238,001.88)	(\$503,517,440.13)	(\$617,016,324.88)
INCREASES:			
U.I. PAYMENTS CREDITED TO SURPLUS:			
SOLVENCY PAID	249,218.24	123,219,808.88	131,790,457.62
FORFEITURES	1,338.00	93,595.72	30,587.00
OTHER INCREASES	11,974,884.36	73,466,768.93	3,029,598.42
U.I. PAYMENTS CREDITED TO SURPLUS SUBTOTAL	<u>12,225,440.60</u>	<u>196,780,173.53</u>	<u>134,850,643.04</u>
TRANSFERS BETWEEN SURPLUS ACCTS	(22,388.22)	17,880,099.98	13,996,699.26
INTEREST EARNED ON TRUST FUND	8,304,075.67	30,729,457.20	32,806,064.13
FUTA TAX CREDITS	126.00	4,636.60	17,335.91
TOTAL INCREASES	<u>20,507,254.05</u>	<u>245,394,367.31</u>	<u>181,670,742.34</u>
DECREASES:			
BENEFITS CHARGED TO SURPLUS:			
QUITS	14,851,391.79	157,159,358.41	35,458,969.05
OTHER NON-CHARGE BENEFITS	2,974,212.68	28,273,921.07	12,359,275.39
MISCELLANEOUS EXPENSE	0.00	0.00	3.00
BENEFITS CHARGED TO SURPLUS SUBTOTAL	<u>17,825,604.47</u>	<u>185,433,279.48</u>	<u>47,818,247.44</u>
SHORT-TIME COMPENSATION EXPENDITURES	0.00	0.00	114,151.84
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	582,373.82	582,373.82	0.00
BALANCE AT THE END OF THE MONTH/YEAR	<u><u>(444,138,726.12)</u></u>	<u><u>(444,138,726.12)</u></u>	<u><u>(483,277,981.82)</u></u>

Cash Activity Related to Taxable Employers with WI Unemployment Rate (for all years from October to September)



SUMMARY OF BILL PROVISIONS

FALL COVID-19 LEGISLATIVE RESPONSE

IMPROVING ACCESS TO HEALTHCARE & BOLSTERING THE WORKFORCE

BILL PROVISION: Require that insurers cover all telehealth services that would be covered were the services provided in-person. Agency: Office of the Commissioner of Insurance Fiscal: No appropriation.	
Issue	The emergence of this pandemic has illuminated the significant barriers, especially for individuals in rural areas, to accessing medical care via telehealth services under standard private health insurance. There should be coverage parity between in-person and telehealth services to ensure healthcare is as accessible and affordable as possible.
Considerations	<ul style="list-style-type: none">• If we're truly going to slow or stop the spread of COVID-19, we must transition to broader use and acceptance of telehealth.• Telehealth also connects rural Wisconsinites to the care they need, which is increasingly important as access to health care in our communities is limited or strained by this pandemic.• Allowing Wisconsinites to access the care they need in their homes will keep individuals, especially our most vulnerable citizens such as older adults and those with compromised immune systems, out of hospitals, clinics, and other health care facilities where they may be exposed or expose others to COVID-19.• The bill helps achieve telehealth parity by prohibiting health insurers from denying covered services delivered through telehealth.

BILL PROVISION: Prohibit insurers from requiring prior authorization or imposing quantity limitations below a 90 days supply through the end of 2021. Agency: Office of the Commissioner of Insurance Fiscal: No appropriation.	
Issue	Without statutory relief to ensure flexibility, unintentional or unnecessary barriers that don't account for the extenuating circumstances of the COVID-19 pandemic may limit an individual's access to necessary prescription medicines.
Considerations	<ul style="list-style-type: none">• Prohibits requiring prior authorization for early refills of a prescription drug or otherwise restricting the period of time in which a prescription can be refilled.• Also prohibits imposing a limit on the quantity of the prescription drugs if the quantity is no more than 90-days.• These provisions do not apply to controlled substances.

BILL PROVISION: Allow pharmacists to extend most Rx refills by 30 days through the end of 2021, where it is safe to do so. Agency: Department of Safety and Professional Services	
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Fiscal: No appropriation.	
Issue	Health care providers need to prioritize services during the pandemic – typically, pharmacists must obtain a health care provider’s approval to allow a prescription renewal.
Considerations	<ul style="list-style-type: none"> • Individuals and pharmacists need flexibility when providers are overextended or otherwise unable to extend a prescription in a timely manner. • Does not include controlled substances and where a “no refill” indication has been made. • Pharmacists must get a health care provider’s approval for additional refills after the initial refill without affirmative physician approval.

BILL PROVISION: Provide the Division of Personnel Management with additional flexibility through 2021.	
Agency: Department of Administration	
Fiscal: No appropriation.	
Issue	Statutory relief is necessary in order to allow DPM to assist agencies in retaining LTE staff and quickly recruiting additional staff critical to the response efforts, helping ensure that state agencies can dedicate the maximum level of resources to the emergency response.
Considerations	<ul style="list-style-type: none"> • These changes were included in 2019 Act 185, but have expired. This provision would extend the following changes through 2021: <ul style="list-style-type: none"> ○ Waiving the 1,040-hour annual limit that a limited term employee may work in a calendar year, and ○ Allowing a state employee to take annual leave during the first six month of employment.

REDUCING THE COST OF CRITICAL HEALTHCARE SERVICES AND ADDRESSING DISPARITIES

BILL PROVISION: Ensure that health plans provide coverage for testing, diagnosis, treatment, prescriptions, and vaccines related to COVID-19.	
Agency: Office of the Commissioner of Insurance	
Fiscal: No appropriation.	
Issue	The recently enacted federal bill, the Families First Coronavirus Response Act, provides that insurers cover testing and screening related to COVID-19. Additionally, current law requires health insurance policies and self-insured governmental health plans to cover, until March 13, 2021, testing for COVID-19 without imposing any copayment or coinsurance. Uncertainty around coverage of treatment, including prescription medicines, following the testing and diagnosis of COVID-19 disincentivizes individuals from obtaining testing, risking public health and safety and harming the collective effort to reduce the spread of the virus.
Considerations	<ul style="list-style-type: none"> • A recent study found that Americans were avoiding the use of health care services, even if they had insurance, out of fear for the financial implications. • Requiring coverage for COVID-19 related services provides certainty to consumers and enhances our collective ability to identify and treat affected individuals and reduce spread.

BILL PROVISION: Prohibit cost-sharing and prior authorization for testing, diagnosis, treatment, prescriptions, and vaccines related to COVID-19.

Agency: Office of the Commissioner of Insurance

Fiscal: No appropriation.

Issue	The recently enacted federal bill, the Families First Coronavirus Response Act, prohibits cost-sharing for testing and screening related to COVID-19. Eventual treatment associated with COVID-19 can produce significant costs for affected individuals, disincentivizing individuals from seeking medical care, further exacerbating the economic challenges individuals are experiencing during the pandemic, all of which harm the collective effort to control the spread of the virus.
Considerations	<ul style="list-style-type: none">• Estimates from Kaiser Family Foundation (KFF) suggest that the cost of inpatient admissions for COVID-19 treatment range from approximately \$10,000 to \$20,000.• Also according to KFF, individuals with employer coverage who are admitted for COVID-19 treatment could face out-of-pocket costs exceeding \$1,300.• A recent study found that Americans were avoiding the use of health care services, even if they had insurance, out of fear for the financial implications.• Additionally, the KFF notes that other states have taken this action, to reduce out of pocket costs for COVID-19 victims requiring treatment.• This bill prohibits cost-sharing for medical services related to COVID-19 in order to strengthen the public health response to the pandemic and minimize the additional financial harm that COVID-19 victims may face.

BILL PROVISION: Establish that insurers will reimburse providers for out-of-network care (including telehealth) resulting from COVID-19 related disruptions at 250% of Medicare rates.

Agency: Office of the Commissioner of Insurance

Fiscal: No appropriation.

Issue	The healthcare system is experiencing capacity issues as it attempts to respond to the pandemic. As a result, care that is both related and unrelated to COVID-19 may be routed to an out-of-network provider. Consumer protection measures, as well as a payment remedy, are necessary to ensure that healthcare remains accessible and affordable during a pandemic.
Considerations	<ul style="list-style-type: none">• Data on pneumonia treatment analogous to in-patient admissions for COVID-19 suggest that between 15–20 percent of patients are likely to receive a surprise bill following an in-network admission.• Some health insurance companies have indicated they will not charge higher cost-sharing for people who inadvertently receive out-of-network care, however, only providers would be in a position to stop balance bills.• This provision applies to any service, treatment or supply that is related to diagnosis or treatment for the condition related to COVID-19 and that is provided by an out-of-network provider.• The provision would also apply if the preferred provider network is unavailable due to the pandemic and an individual is referred to an out-of-network provider for treatment of any condition.

BILL PROVISION: Allow critical workers, including healthcare workers, to claim worker's compensation benefits related to COVID-19, presuming that they received the illness from their occupation.

<p>Agency: Department of Workforce Development</p> <p>Fiscal: No appropriation.</p>	
Issue	Generally, communicable diseases generally are not compensable under worker's compensation and compensation is limited to diseases that are the result of long-term exposure to a condition of employment.
Considerations	<ul style="list-style-type: none"> • Critical workers, as determined by DHS, are placing themselves in danger by continuing to engage with the public in various ways to maintain services, at the risk of contracting COVID-19 themselves. • As critical workers are in contact with the general frequently, a presumption of a work-related illness in their favor is appropriate. • This provision does not include language from 2019 Act 185 that required employees to show they had been exposed to persons with confirmed cases of COVID-19 in the course of employment.

REDUCING SPREAD OF COVID-19 BY HELPING WISCONSINITES STAY HOME

<p>BILL PROVISION: Waive in-person appearance requirements through the end of 2021.</p> <p>Agency: Enterprise-wide</p> <p>Fiscal: No appropriation.</p>	
Issue	Statutory relief is necessary in order to provide flexibility to allow people to appear remotely where they would otherwise be required to appear in person is a common sense way to reduce unnecessary face-to-face interactions.
Considerations	<ul style="list-style-type: none"> • Face-to-face interactions present additional opportunities for exposure to and spread of the virus, which will hinder the state's ability to swiftly address the emergency and will prolong the harm caused by the virus. • This provision enhances the state's response to the pandemic by allowing for the waiving of certain in-person requirements that may increase the public health risk.

<p>BILL PROVISION: Allow online notaries to perform online notarization of estate planning documents (such as wills and trusts) through the end of 2021.</p> <p>Agency: Department of Financial Institutions</p> <p>Fiscal: No appropriation.</p>	
Issue	Due to the COVID-19 pandemic, in-person appointments with notaries may not be feasible or safe.
Considerations	<ul style="list-style-type: none"> • This would afford Wisconsinites who want to do estate planning during the pandemic the ability to do so remotely.

PROVIDING ECONOMIC PROTECTION AND SUPPORT

BILL PROVISION: Allow DHS to issue an order prohibiting evictions and foreclosures through 2021.	
Agency: Department of Agriculture, Trade, and Consumer Protection	
Fiscal: No appropriation.	
Issue	Action is needed to ensure housing security for Wisconsinites that lose their jobs or suffer financial hardship as a result of the COVID-19 pandemic and to assist Wisconsin businesses struggling to stay afloat.
Considerations	<ul style="list-style-type: none"> • Under this provision, DHS may issue an order prohibiting the commencement of any action for eviction under chs. 704 and 799 or for foreclosure under ch. 846 through 2021. • An order issued under this subsection may be applicable statewide or may be geographically limited.

BILL PROVISION: Authority to waive interest, penalties or payments on governmental loans and debt through the end of 2021.	
Agency: Department of Administration	
Fiscal: No appropriation.	
Issue	Given the unprecedented economic disruption created by the COVID-19 pandemic, it is important that state and local officials have the ability to waive interest, penalties and payments on loans through the end of 2021.
Considerations	<ul style="list-style-type: none"> • This provision is consistent with the recommendation that the appropriate agency head be allowed to waive in-person requirements and deadlines or specific statutory timelines that occur during the pandemic. • This provision is designed to help cushion the economic blow that many Wisconsin residents are currently facing. • It would not apply to debt service payments that are required to be made at the state or local level.

BILL PROVISION: Suspend the one-week waiting period for unemployment insurance through the end of 2021.	
Agency: Department of Workforce Development	
Fiscal: No appropriation.	
Issue	The state has experienced an unprecedented increase in the number of unemployment claims within a very short time frame due to the pandemic – allowing individuals to receive their UI benefit immediately will ensure financial stability for claimants and the economy.
Considerations	<ul style="list-style-type: none"> • Under the Families First Coronavirus Response Act, states were required to temporarily suspend waiting week requirements to receive federal matching for the first week of Extended Benefits and emergency administrative grants. • While Wisconsin temporarily suspended this requirement under Act 185, it is clear this crisis will not be over by February and should be extended through the end of 2021. • Eliminating the one-week waiting period helps not only the claimants, but also local businesses through the purchase of goods and services, landlords who may not otherwise receive a rent check but must continue to pay for upkeep and utilities, and local banks who service loans.

BILL PROVISION: Create a solution for the issue created by 2019 Act 185 by allowing funds to be transferred into the Interest and Penalties (I&P) Appropriation.

Agency: Department of Workforce Development

Fiscal: No appropriation.

Issue	The I&P appropriation is currently showing a deficit due to the way benefit payments were structured under 2019 Act 185.
Considerations	<ul style="list-style-type: none">• 2019 Act 185 funneled money from this appropriation to support benefit payments in a way where the claims are projected to exceed the cash available.• Due to 2019 Act 185, additional legislative changes are needed to resolve the deficit as the administration is not able to transfer funds to the I&P appropriation.• Had the Legislature adopted the Governor's original COVID-19 legislative proposal, there would have been no effect on the I&P appropriation and the cash balance would not have drawn down above and beyond what was available to pay benefits. The Governor's proposal would have lessened the impact of COVID-19 job losses on employers while avoiding the current problem.• Legislative Republicans were aware that DWD had concerns about the way the payments out of the I&P appropriation were modeled.

BILL PROVISION: Waive certain parameters related to the Work-Share program through the end of 2021.

Agency: Department of Workforce Development

Fiscal: No appropriation

Issue	There has been increased interest in the Work-Share program due to the pandemic.
Considerations	<ul style="list-style-type: none">• The Work-Share program helps employers avoid layoffs by allowing workers to remain employed and employers to retain staff during times of reduced business activity.• Specifically, this provision would waive the following requirements:<ul style="list-style-type: none">◦ The requirement that the reduction in working hours under a work-share program must be at least 10% but not more than 50%.◦ The requirement that at least 10% of the employees in a work unit be included.◦ The requirement that the employer provide for initial coverage of at least 20 positions.• Additionally, this provision permanently extends the ability of Work-Share plans to be in place from 6 months to 12 months.• While certain Work-Share provisions were waived through the end of 2020 under Act 185, it is clear this crisis will not be over by then and these provisions should be waived through the end of 2021.

BILL PROVISION: Allow DWD to promulgate rules relaxing work search requirements through the end of 2021.

Agency: Department of Workforce Development

Fiscal: No appropriation.

Issue	Under current law, DWD has the limited ability to waive these requirements if it is specifically allowed under federal law. DWD promulgated an emergency rule that temporarily relaxed work search requirements, but it will expire before the conclusion of the pandemic.
Considerations	<ul style="list-style-type: none">• The current emergency rule aligns with federal law, which allows states to waive COVID-19 work search requirements during the pandemic.

	<ul style="list-style-type: none"> • While DWD received an extension on the emergency rule and can request a second extension, the pandemic will outlast the emergency rule. • Requiring claimants to contact employers to search for work puts an unnecessary burden on employers (especially small ones) during this time of high stress. • Some industries, such as food service, hospitality, tourism, and retail, have been particularly hard hit by the pandemic and it appears that there are few, if any, job opportunities in those and other sectors. • Although Job Center services are available virtually and by phone, claimants do not have physical access to the Job Centers or other facilities that provide internet access to assist with work search actions. • Relaxing this requirement has led to a decreased number of claims being held for adjudication. DWD estimates that if work search requirements are reinstated, 10,000-15,000 benefit claims may be held in adjudication for non-compliance.
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<p>BILL PROVISION: Allow social security disability (SSDI) recipients to receive concurrent unemployment insurance benefits.</p> <p>Agency: Department of Workforce Development</p> <p>Fiscal: No appropriation.</p>	
Issue	Current law disqualifies a claimant who is receiving social security disability insurance (SSDI) benefits from receiving UI in any given week. This disqualification has become even more problematic during the pandemic.
Considerations	<ul style="list-style-type: none"> • Wisconsin is one of only two states that prevent people with disabilities who are able to work from receiving unemployment benefits. • The SSDI program encourages participants to work as much as they are able. • Approximately 175,000 Wisconsinites supplement their income with SSDI. • This provision would help some of Wisconsin's most vulnerable workers.

CREATING FLEXIBILITY TO SUPPORT KIDS & FAMILIES

<p>BILL PROVISION: Waive student assessments and school report card requirements for the 2020-21 school year.</p> <p>Agency: Department of Public Instruction</p> <p>Fiscal: No appropriation.</p>	
Issue	K-12 schools are on the frontline of adapting to rapidly changing circumstances during the pandemic. They need flexibility in the face requirements that do not contemplate the magnitude of the pandemic.
Considerations	<ul style="list-style-type: none"> • Waiving these requirements reduces the burden on schools that are devoting time to adapting their instruction and function as they move between in-person and virtual learning. • Student assessments create a unique challenge and likely cannot be administered safely and uniformly. It follows that school report cards should also be suspended. • Federal requirements related to assessments remain in effect for the 2020-21 school year, but this provision provides flexibility if those requirements are waived at the federal level.

BILL PROVISION: Allow rehiring of retired annuitants and ability to reinstate licensure (including people in the last 5 years and people from out of state) through the end of 2021.

Agency: Employee Trust Funds

Fiscal: No appropriation.

Issue	Statutory relief is necessary in order to support the COVID-19 response efforts of state and local governments by ensuring that experienced staff can be quickly rehired and deployed to in-need areas.
Considerations	<ul style="list-style-type: none">• This provision reduces the waiting period for a WRS participant who has applied to receive a retirement annuity must wait between terminating covered employment with a WRS employer and returning to WRS-covered employment from 75 days to 15 days.• This reduced waiting period, which is in effect only through the end of 2021, applies to participants rehired into classifications deemed as important to the COVID-19 response efforts, as determined by hiring state agencies and local government public health officials.• School districts in particular need flexibility to rehire retired teachers as they move between in-person and virtual learning during the pandemic. This flexibility will allow districts to provide smaller class sizes and virtual classes.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6522/1
ALL:all

2019 BILL

1 **AN ACT to repeal** 108.04 (2) (h), 108.04 (12) (f) and 609.205 (1); **to renumber and**
2 **amend** 450.11 (5) (br) 3.; **to amend** 40.22 (1), 40.22 (2m) (intro.), 40.22 (2r)
3 (intro.), 40.22 (3) (intro.), 40.26 (1m) (a), 40.26 (1m) (b), 40.26 (5m), 40.51 (8),
4 40.51 (8m), 66.0137 (4), 102.565 (6), 108.04 (3) (b), 108.062 (2) (d), 108.062 (20)
5 (intro.), 108.062 (20) (c), 108.07 (5) (bm) 3. b., 115.385 (6), 115.415 (1) (b), 120.13
6 (2) (g), 140.145 (10) (a), 140.145 (10) (b), 185.983 (1) (intro.), 323.19 (4) (b),
7 323.2912, 323.2913, 450.11 (5) (br) 2. d., 609.205 (2) and (3) (intro.) and (a) and
8 632.895 (16v) (a) (intro.); **to repeal and recreate** 632.895 (14g) (b); and **to**
9 **create** 20.435 (1) (dw), 20.505 (1) (bk), 20.835 (2) (an), 40.26 (7), 73.03 (75),
10 102.03 (7), 252.02 (8), 323.19 (3m), 323.19 (3p), 323.267, 450.11 (5) (br) 3. b.,
11 609.719, 632.871 and 655.0025 of the statutes; **relating to:** state government
12 response to COVID-19 pandemic, extending the time limit for emergency rule

BILL

1 procedures, providing an exemption from emergency rule procedures, granting
2 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau**HEALTH AND HUMAN SERVICES*****Prescription order extensions***

Current law allows a pharmacist to extend a prescription order under certain circumstances in the event that the prescription cannot otherwise be refilled, subject to certain criteria and limitations. However, current law also includes an alternative authorization for a pharmacist to extend a prescription during the public health emergency declared on March 12, 2020, by executive order 72, and for 30 days after the conclusion of that public health emergency. Under this alternative authorization, a pharmacist is exempt from having to contact the prescribing practitioner or his or her office, the pharmacist may extend the prescription by up to a 30-day supply, and certain other requirements also do not apply. This bill provides that this alternative authorization to extend a prescription order also applies beginning on the bill's effective date to the end of 2021.

Orders prohibiting evictions and foreclosures

This bill allows the Department of Health Services to issue an order prohibiting the commencement of actions for eviction or foreclosure for any period before January 1, 2022.

Funding for Department of Health Services for COVID-19

This bill provides funding to DHS for community testing, contact tracing, vaccinations, and public awareness related to COVID-19.

INSURANCE***Coverage limits on certain prescription drugs***

The bill prohibits insurers that offer health insurance, self-insured governmental health plans, and pharmacy benefit managers from requiring, before January 1, 2022, prior authorization for early refills of a prescription drug or otherwise restricting the period of time in which a prescription drug may be refilled and from imposing a limit on the quantity of prescription drugs that may be obtained if the quantity is no more than a 90-day supply. These prohibitions do not apply if the prescription drug is a controlled substance. The bill reinstates the prohibitions that were enacted in 2019 Wisconsin Act 185 but that expired with the termination of the state of emergency related to public health declared on March 12, 2020, by the governor.

Liability insurance for physicians and nurse anesthetists

This bill specifies that, before January 1, 2022, a physician or nurse anesthetist for whom Wisconsin is not a principal place of practice but who is temporarily authorized to practice in Wisconsin may fulfill financial responsibility requirements by filing with the commissioner of insurance a certificate of insurance for a policy of

BILL

health care liability insurance issued by an insurer authorized in a certain jurisdiction specified in the bill. Additionally, under those same circumstances, the physician or nurse anesthetist may elect to be covered by Wisconsin's health care liability laws.

Out-of-network costs related to health coverage

This bill prohibits, through December 31, 2021, a defined network plan, including a health maintenance organization, or preferred provider plan from requiring an enrollee of the plan to pay more for a service, treatment, or supply provided by an out-of-network provider than if the service, treatment, or supply is provided by an in-network provider. This prohibition applies to any service, treatment, or supply that is related to the diagnosis of or treatment for COVID-19 and that is provided by an out-of-network provider because a participating provider is unavailable due to the COVID-19 pandemic. For a service, treatment, or supply provided under those circumstances, the bill requires the plan to reimburse the out-of-network provider at 250 percent of the federal Medicare program rate. Also, under those circumstances, any health care provider or facility that provides a service, treatment, or supply to an enrollee of a plan but is not a participating provider of that plan shall accept as payment in full any payment by a plan that is at least 250 percent of the federal Medicare program rate and may not charge the enrollee an amount that exceeds the amount that the provider or facility is reimbursed by the plan. Similar prohibitions and requirements were created in 2019 Wisconsin Act 185, except that the reimbursement rate in Act 185 for an out-of-network provider was 225 percent of the federal Medicare program rate. The Act 185 prohibitions and requirements applied only during the state of emergency related to public health declared on March 12, 2020, and for 60 days following the termination of that state of emergency.

Coverage of COVID-19 related costs without cost sharing

The bill requires every health insurance policy and every self-insured governmental health plan that generally covers testing for and treatment of infectious disease to provide coverage of testing for, diagnosis and treatment of, and administration of any vaccination developed to prevent COVID-19 without imposing any copayment or coinsurance. This requirement applies through December 31, 2021. A health insurance policy is referred to in the bill as a disability insurance policy. Current law requires health insurance policies and self-insured governmental health plans to cover, until March 13, 2021, testing for COVID-19 without imposing any copayment or coinsurance.

Coverage parity for telehealth services

This bill prohibits a health insurance policy or a self-insured health plan of the state or a county, city, village, town, or school district from denying coverage for a treatment or service provided through telehealth if that treatment or service is covered under the policy or plan when provided in person by a health care provider. This prohibition applies through December 31, 2021. Health insurance policies are known as disability insurance policies in the bill. Telehealth is a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during

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a patient visit or a consultation or are used to transfer medically relevant data about a patient.

EDUCATION**PUPIL ASSESSMENTS*****Pupil assessments and school and school district accountability report; 2020-21 school year exemption***

Under the bill, requirements to administer various pupil assessments do not apply in the 2020-21 school year. The bill also prohibits the Department of Public Instruction from publishing a school and school district accountability report for the 2020-21 school year.

Under current law, school boards, independent charter schools, private schools participating in the Milwaukee Parental Choice Program, Racine Parental Choice Program, or Wisconsin Parental Choice Program, and, under some circumstances, a private school participating in the Special Needs Scholarship Program are required to annually administer assessments adopted by DPI to pupils in the fourth, eighth, ninth, tenth, and eleventh grades. These assessments are commonly referred to as the Wisconsin Student Assessment System, which includes the Wisconsin Forward Exam, ACT ASPIRE, the ACT with Writing, and Dynamic Learning Maps. The requirements to administer the WSAS did not apply in the 2019-20 school year. Under the bill, the requirements to administer the WSAS do not apply in the 2020-21 school year.

Current law also requires school boards, independent charter schools, and private schools participating in a parental choice program to annually administer a standardized reading test developed by DPI to third grade pupils. The requirements to administer the third grade standardized reading test did not apply in the 2019-20 school year. Under the bill, the requirements to administer the third grade standardized reading test do not apply in the 2020-21 school year.

Under current law, each school board and independent charter school must annually administer a reading readiness assessment selected by the school board or independent charter school to pupils in four-year-old kindergarten through second grade. The requirements to administer a reading readiness assessment applied in the 2019-20 school year. Under the bill, the requirements to administer a reading readiness assessment do not apply in the 2020-21 school year.

Under current law, school boards and independent charter schools are required to evaluate teachers and principals using an educator effectiveness evaluation system that considers pupil performance on statewide assessments. School boards and independent charter schools were prohibited from considering pupil performance on statewide assessments in evaluating teachers and principals in the 2019-20 school year. Under the bill, the prohibition against considering pupil performance on statewide assessments in evaluating teachers and principals also applies in 2020-21 school year.

SCHOOL AND SCHOOL DISTRICT ACCOUNTABILITY REPORT

Under current law, DPI is required to publish a school and school district accountability report for the previous school year by November 30. To measure

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school performance and school district improvement for purposes of the report card, particularly measures related to pupil achievement in reading and math, DPI uses data derived from pupil performance on the WSAS.

Under current law, schools and school districts were not required to administer the WSAS in the 2019-20 school year and DPI is prohibited from publishing a school and school district accountability report in the 2020-21 school year. Under the bill, schools and school districts are not required to administer the WSAS in the 2020-21 school year and DPI is prohibited from publishing a school and school district accountability report in the 2021-22 school year.

EMPLOYMENT**STATE EMPLOYMENT*****Limited-term employees***

Under the bill, the director of the Bureau of Merit Recruitment and Selection in the Division of Personnel Management in the Department of Administration may adjust the number of hours a state employee in a limited-term appointment may work during the period beginning on March 12, 2020, and ending on December 31, 2021. Under current law, a limited-term appointment may not exceed 1,040 hours per year.

Use of annual leave

Under the bill, a state employee may take annual leave during the period beginning on March 12, 2020, and ending on December 31, 2021, even if the employee has not completed the first six months of the employee's probationary period. Under current law, an employee may not take annual leave during the first six months of the employee's probationary period.

UNEMPLOYMENT INSURANCE***Benefit charging***

Current law, as enacted in 2019 Wisconsin Act 185, requires the Department of Workforce Development, when processing claims for unemployment insurance benefits and evaluating work-share plans, to determine whether a claim or plan is related to the public health emergency declared by the governor under Executive Order 72. If a claim is so related, current law provides that the regular benefits for that claim for weeks occurring after March 12, 2020, and before December 31, 2020, not be charged as is normally provided. Instead, the benefits for those weeks are, subject to numerous exceptions, to be charged in one of two ways:

1. To the balancing account of the unemployment reserve fund, which is a pooled account financed by employers that pay contributions (taxes) and is used to pay benefits that are not chargeable to any employer's account.
2. To the unemployment interest and penalties appropriation account for reimbursable employers, which are employers that do not pay contributions but instead reimburse DWD for benefits directly.

This bill allows the secretary of administration to transfer moneys from any executive branch appropriation to the unemployment interest and penalties appropriation account for the purpose of paying the benefits described above

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attributable to reimbursable employers under Act 185. The transfers may not exceed the amount necessary to make those payments.

Work-share programs

Current law allows an employer to create a work-share program within a work unit of the employer. Under a work-share program, the working hours of all of the full-time employees in the program are reduced in an equitable manner in lieu of a layoff of some of the employees and a continuation of full-time employment by the other employees. A claimant for unemployment insurance benefits who is included in a work-share program may receive UI benefits during his or her continued employment with the work-share employer in an amount equal to the claimant's benefit for total unemployment multiplied by the same percentage reduction in normal working hours that the claimant incurs under the program. Current law also provides for the temporary modification of certain requirements that apply to work-share plans with respect to work-share plans submitted on or after April 17, 2020, and before December 31, 2020. This bill extends the applicability of these modifications to January 1, 2022. The bill also adds an additional modification, which is made effective permanently, to allow work-share plans to remain in effect for 12 months in a five-year period, instead of six months.

Waiting period

Currently, a claimant must generally wait one week after becoming eligible to receive unemployment insurance benefits before the claimant may receive benefits for a week of unemployment, but the application of the one-week waiting period is temporarily suspended for benefit years that began after March 12, 2020, and before February 7, 2021. This bill extends the end date for suspending the one-week waiting period to January 1, 2022.

Registration for work and work search waivers

Under current law, a claimant for unemployment insurance benefits is generally required to register for work and to search for work each week in order to remain eligible, but DWD is required to waive these requirements under certain circumstances. Under current law, DWD has limited rule-making authority to modify the availability of waivers or establish additional waivers if necessary to comply with a requirement under federal law or if specifically allowed under federal law. This bill allows DWD to promulgate rules that remain in effect until January 1, 2022, that provide waivers of the registration for work or work search requirements under additional circumstances.

Receipt of Social Security Disability Insurance benefits

Under current law, in any week in any month that a claimant is receiving a benefit under the federal social security disability program, that claimant is ineligible for unemployment insurance benefits. This bill repeals that prohibition and allows an otherwise eligible claimant to receive both federal social security disability benefits and unemployment insurance benefits for the same period.

BILL**WORKER'S COMPENSATION*****Injury to critical workers***

This bill provides that, for the purposes of worker's compensation, an injury caused to a critical worker by COVID-19 during the period beginning on the effective date of the bill and ending on December 31, 2021, is presumed to be caused by the individual's employment. The presumption requires a diagnosis or positive test for COVID-19 and may be rebutted by specific evidence that the injury was caused outside of employment. Under the bill, the secretary of health services determines which workers are considered critical workers during the specified period.

FINANCIAL INSTITUTIONS***Remote notarization of estate planning documents***

This bill allows a notary public, through the end of calendar year 2021, to perform notarizations involving estate planning documents for individuals not physically present before the notary public.

Current law generally requires a person to physically appear before a notary public in order for the notary public to perform a notarial act, but provisions in 2019 Wisconsin Act 125 allow a notary public, using technology, to notarize documents for persons not physically present with the notary public (remotely located individuals) if certain requirements are satisfied. This authority under Act 125 for a notary public to perform a notarial act for a remotely located individual does not extend to a transaction involving estate planning documents such as wills and trusts.

This bill allows a notary public, through the end of calendar year 2021, to perform for a remotely located individual a notarial act involving estate planning documents such as wills and trusts.

RETIREMENT AND GROUP INSURANCE**WISCONSIN RETIREMENT SYSTEM*****WRS annuities for critical workers***

Under current law, certain people who receive a retirement or disability annuity from the Wisconsin Retirement System and who are hired by an employer that participates in the WRS must suspend that annuity and may not receive a WRS annuity payment until the person is no longer in a WRS-covered position. This suspension applies to a person who 1) has reached his or her normal retirement date; 2) is appointed to a position with a WRS-participating employer, or provides employee services as a contractor to a WRS-participating employer; and 3) is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds.

This bill creates an exception to this suspension if 1) the person is either hired or provides employee services as a contractor in a critical position during the period beginning on the effective date of the bill and ending on December 31, 2021; 2) at the time the person initially retires from covered employment with a participating employer, the person does not have an agreement with any participating employer to return to employment; and 3) the person elects to not become a participating employee at the time the person is rehired or enters into a contract after retirement.

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In other words, the bill allows a WRS annuitant who is either hired or provides employee services as a contractor in a critical position during the period beginning on the effective date of the bill and ending on December 31, 2021, to return to work with an employer who participates in the WRS and continue to receive his or her annuity.

STATE GOVERNMENT***Waiving in-person requirements***

Current law allowed a state entity to waive any requirement that an individual appear in person during the public health emergency declared on March 12, 2020. This bill expands that provision so that a state entity may waive such in-person requirements through December 31, 2021, if enforcing the requirement would increase the public health risk.

Waiver of certain interest, penalties, and payments

Under this bill, each state agency and authority and each local governmental unit may waive any interest, penalty, or payment that accrues or becomes due beginning on the day the bill becomes law and ending on December 31, 2021, with respect to a debt any person owes to the agency, authority, or local unit of government.

COVID-19 testing and surge capacity

The bill requires DOA to do all of the following related to COVID-19:

1. Facilitate COVID-19 testing and diagnosis throughout this state.
2. Operate alternate care facilities staffed by health care professionals for patients diagnosed with COVID-19.
3. Facilitate surge staffing resources for health care facilities throughout the state.

Grants to small businesses

The bill authorizes the Department of Revenue to provide grants to small businesses in the manner to be determined by DOR.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

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

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

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

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	2019-20	2020-21
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1 **20.435 Health services, department of**

2 (1) PUBLIC HEALTH SERVICES PLANNING, REGULATION,
3 AND DELIVERY

4 (dw) Coronavirus pandemic	GPR	A	-0-	63,000,000
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5 **20.505 Administration, department of**

6 (1) SUPERVISION AND MANAGEMENT

7 (bk) COVID-19 testing and surge

8 capacity	GPR	A	-0-	403,000,000
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9 **20.835 Shared revenue and tax relief**

10 (2) TAX RELIEF

11 (an) Grants to small businesses	GPR	A	-0-	75,000,000
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12 **SECTION 2.** 20.435 (1) (dw) of the statutes is created to read:

13 20.435 (1) (dw) *Coronavirus pandemic*. The amounts in the schedule for
14 community testing, contact tracing, vaccinations, and public awareness related to
15 the infection caused by the SARS-CoV-2 coronavirus, known as COVID-19.

16 **SECTION 3.** 20.505 (1) (bk) of the statutes is created to read:

17 20.505 (1) (bk) *COVID-19 testing and surge capacity*. The amounts in the
18 schedule for the purposes specified in 2019 Wisconsin Act ... (this act), section 49 (3).

19 **SECTION 4.** 20.835 (2) (an) of the statutes is created to read:

20 20.835 (2) (an) *Grants to small businesses*. The amounts in the schedule to
21 provide grants to small businesses under s. 73.03 (75).

BILL**SECTION 5**

1 **SECTION 5.** 40.22 (1) of the statutes, as affected by 2019 Wisconsin Act 185, is
2 amended to read:

3 40.22 (1) Except as otherwise provided in sub. (2) and s. 40.26 (6) and (7), each
4 employee currently in the service of, and receiving earnings from, a state agency or
5 other participating employer shall be included within the provisions of the Wisconsin
6 retirement system as a participating employee of that state agency or participating
7 employer.

8 **SECTION 6.** 40.22 (2m) (intro.) of the statutes, as affected by 2019 Wisconsin Act
9 185, is amended to read:

10 40.22 (2m) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
11 employee who was a participating employee before July 1, 2011, who is not expected
12 to work at least one-third of what is considered full-time employment by the
13 department, as determined by rule, and who is not otherwise excluded under sub. (2)
14 from becoming a participating employee shall become a participating employee if he
15 or she is subsequently employed by the state agency or other participating employer
16 for either of the following periods:

17 **SECTION 7.** 40.22 (2r) (intro.) of the statutes, as affected by 2019 Wisconsin Act
18 185, is amended to read:

19 40.22 (2r) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), an
20 employee who was not a participating employee before July 1, 2011, who is not
21 expected to work at least two-thirds of what is considered full-time employment by
22 the department, as determined by rule, and who is not otherwise excluded under sub.
23 (2) from becoming a participating employee shall become a participating employee
24 if he or she is subsequently employed by the state agency or other participating
25 employer for either of the following periods:

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1 **SECTION 8.** 40.22 (3) (intro.) of the statutes, as affected by 2019 Wisconsin Act
2 185, is amended to read:

3 40.22 (3) (intro.) Except as otherwise provided in s. 40.26 (6) and (7), a person
4 who qualifies as a participating employee shall be included within, and shall be
5 subject to, the Wisconsin retirement system effective on one of the following dates:

6 **SECTION 9.** 40.26 (1m) (a) of the statutes, as affected by 2019 Wisconsin Act 185,
7 is amended to read:

8 40.26 (1m) (a) Except as otherwise provided in ~~sub.~~ subs. (6) and (7), if a
9 participant receiving a retirement annuity, or a disability annuitant who has
10 attained his or her normal retirement date, is employed in a position in covered
11 employment in which he or she is expected to work at least two-thirds of what is
12 considered full-time employment by the department, as determined under s. 40.22
13 (2r), the participant's annuity shall be suspended and no annuity payment shall be
14 payable until after the participant terminates covered employment.

15 **SECTION 10.** 40.26 (1m) (b) of the statutes, as affected by 2019 Wisconsin Act
16 185, is amended to read:

17 40.26 (1m) (b) Except as otherwise provided in ~~sub.~~ subs. (6) and (7), if a
18 participant receiving a retirement annuity, or a disability annuitant who has
19 attained his or her normal retirement date, enters into a contract to provide
20 employee services with a participating employer and he or she is expected to work
21 at least two-thirds of what is considered full-time employment by the department,
22 as determined under s. 40.22 (2r), the participant's annuity shall be suspended and
23 no annuity payment shall be payable until after the participant no longer provides
24 employee services under the contract.

BILL**SECTION 11**

1 **SECTION 11.** 40.26 (5m) of the statutes, as created by 2019 Wisconsin Act 185,
2 is amended to read:

3 40.26 **(5m)** During the public health emergency declared on March 12, 2020,
4 by executive order 72, or during the period beginning on the effective date of this
5 subsection [LRB inserts date], and ending on December 31, 2021, sub. (5) does not
6 apply if at least 15 days have elapsed between the termination of employment with
7 a participating employer and becoming a participating employee if the position for
8 which the participant is hired is a critical position, as determined by the secretary
9 of health services under s. 323.19 (3).

10 **SECTION 12.** 40.26 (7) of the statutes is created to read:

11 40.26 **(7)** (intro.) During the period beginning on the effective date of this
12 subsection [LRB inserts date], and ending on December 31, 2021, a participant
13 who is hired during the period may elect to not suspend his or her retirement annuity
14 or disability annuity under sub. (1m) for the duration of the period if all of the
15 following conditions are met:

16 (a) At the time the participant terminates his or her employment with a
17 participating employer, the participant does not have an agreement with any
18 participating employer to return to employment or enter into a contract to provide
19 employee services for the employer.

20 (b) The participant is hired to a critical position, as determined under s. 323.19
21 (3m).

22 **SECTION 13.** 40.51 (8) of the statutes, as affected by 2019 Wisconsin Act 185,
23 is amended to read:

24 40.51 **(8)** Every health care coverage plan offered by the state under sub. (6)
25 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.729, 632.746

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1 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853,
2 632.855, 632.867, 632.87 (3) to (6), 632.871, 632.885, 632.89, 632.895 (5m) and (8) to
3 (17), and 632.896.

4 **SECTION 14.** 40.51 (8m) of the statutes, as affected by 2019 Wisconsin Act 185,
5 is amended to read:

6 40.51 **(8m)** Every health care coverage plan offered by the group insurance
7 board under sub. (7) shall comply with ss. 631.95, 632.729, 632.746 (1) to (8) and (10),
8 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.867,
9 632.871, 632.885, 632.89, and 632.895 (11) to (17).

10 **SECTION 15.** 66.0137 (4) of the statutes, as affected by 2019 Wisconsin Act 185,
11 is amended to read:

12 66.0137 **(4)** SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
13 a village provides health care benefits under its home rule power, or if a town
14 provides health care benefits, to its officers and employees on a self-insured basis,
15 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
16 632.729, 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855,
17 632.867, 632.87 (4) to (6), 632.871, 632.885, 632.89, 632.895 (9) to (17), 632.896, and
18 767.513 (4).

19 **SECTION 16.** 73.03 (75) of the statutes is created to read:

20 73.03 **(75)** To provide grants from the appropriation account under s. 20.835
21 (2) (an) to small businesses in this state in the manner prescribed by the department.

22 **SECTION 17.** 102.03 (7) of the statutes is created to read:

23 102.03 **(7)** (a) In this subsection, “critical worker” means an employee whose
24 position is determined to be critical under s. 323.19 (3p).

BILL**SECTION 17**

1 (b) For the purposes of benefits under this chapter, where an injury to a critical
2 worker is found to be caused by COVID-19, during the period beginning on the
3 effective date of this paragraph ... [LRB inserts date], and ending on December 31,
4 2021, the injury is presumed to be caused by the individual's employment.

5 (c) An injury claimed under par. (b) must be accompanied by a specific diagnosis
6 of COVID-19 by a physician, or by a positive diagnostic test result for the disease.

7 (d) An injury claimed under par. (b) may be rebutted by specific evidence that
8 the injury was caused by exposure to COVID-19 outside of the individual's work for
9 the employer.

10 **SECTION 18.** 102.565 (6) of the statutes, as created by 2019 Wisconsin Act 185,
11 is amended to read:

12 102.565 (6) This section does not apply to an employee whose claim of injury
13 is presumed to be caused by employment under s. 102.03 (6) or (7).

14 **SECTION 19.** 108.04 (2) (h) of the statutes is repealed.

15 **SECTION 20.** 108.04 (3) (b) of the statutes, as created by 2019 Wisconsin Act 185,
16 is amended to read:

17 108.04 (3) (b) Paragraph (a) does not apply with respect to benefit years that
18 begin after March 12, 2020, and before ~~February 7, 2021~~ January 2, 2022. The
19 department shall seek the maximum amount of federal reimbursement for benefits
20 that are, during the time period specified in this paragraph, payable for the first
21 week of a claimant's benefit year as a result of the application of this paragraph.

22 **SECTION 21.** 108.04 (12) (f) of the statutes is repealed.

23 **SECTION 22.** 108.062 (2) (d) of the statutes is amended to read:

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1 108.062 (2) (d) Specify the period or periods when the plan will be in effect,
2 which may not exceed a total of ~~6~~ 12 months in any 5-year period within the same
3 work unit.

4 **SECTION 23.** 108.062 (20) (intro.) of the statutes, as created by 2019 Wisconsin
5 Act 185, is amended to read:

6 108.062 (20) SUSPENSIONS OF CERTAIN PROVISIONS. (intro.) Notwithstanding sub.
7 (2), this subsection, and not sub. (2), applies to work-share plans submitted on or
8 after April 17, 2020, and before ~~December 31, 2020~~ January 2, 2022, subject to sub.
9 (19). During that period, prior to implementing a work-share program, an employer
10 shall submit a work-share plan for the approval of the department. In its submittal,
11 the employer shall certify that its plan is in compliance with all requirements under
12 this section. Each plan shall:

13 **SECTION 24.** 108.062 (20) (c) of the statutes, as created by 2019 Wisconsin Act
14 185, is amended to read:

15 108.062 (20) (c) Specify the period or periods when the plan will be in effect,
16 which may not exceed a total of ~~6~~ 12 months in any 5-year period within the same
17 work unit.

18 **SECTION 25.** 108.07 (5) (bm) 3. b. of the statutes is amended to read:

19 108.07 (5) (bm) 3. b. For reimbursable employers, as defined in s. 108.155 (1)
20 (b), the benefits shall be paid in the manner provided under par. (am) 1. The
21 secretary of administration may transfer any amount from the unencumbered
22 balance of any appropriation of an executive branch agency to the appropriation
23 under s. 20.445 (1) (gd). The transfers made under this subsection may not exceed
24 the amount required to make the payments required under this subd. 3. b.

BILL**SECTION 26**

1 **SECTION 26.** 115.385 (6) of the statutes, as created by 2019 Wisconsin Act 185,
2 is amended to read:

3 115.385 (6) The department ~~shall~~ may not publish a school and school district
4 accountability report under this section in the 2020-21 and 2021-22 school year
5 years.

6 **SECTION 27.** 115.415 (1) (b) of the statutes, as affected by 2019 Wisconsin Act
7 185, is amended to read:

8 115.415 (1) (b) For the evaluation of teachers and principals in the 2019-20 and
9 2020-21 school year years, the school board and the operator of a charter school
10 established under s. 118.40 (2r) may not consider pupil performance on statewide
11 assessments administered under s. 118.30 in the 2019-20 or 2020-21 school year and
12 may not include pupil performance on those assessments in the evaluation score
13 assigned to a teacher or principal under the educator effectiveness evaluation system
14 developed under this section.

15 **SECTION 28.** 120.13 (2) (g) of the statutes, as affected by 2019 Wisconsin Act
16 185, is amended to read:

17 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
18 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2.,
19 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.867, 632.87 (4) to (6), 632.871,
20 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

21 **SECTION 29.** 140.145 (10) (a) of the statutes, as created by 2019 Wisconsin Act
22 125, is amended to read:

23 140.145 (10) (a) Any law governing the creation and execution of wills, codicils,
24 or testamentary trusts, except that this section applies to a transaction governed as

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1 described in this paragraph from the effective date of this paragraph [LRB inserts
2 date], to December 31, 2021.

3 **SECTION 30.** 140.145 (10) (b) of the statutes, as created by 2019 Wisconsin Act
4 125, is amended to read:

5 140.145 (10) (b) Any law governing the creation and execution of living trusts
6 or trust amendments for personal use, not including a transaction, as defined in s.
7 137.11 (15), except that this section applies to a transaction governed as described
8 in this paragraph from the effective date of this paragraph [LRB inserts date], to
9 December 31, 2021.

10 **SECTION 31.** 185.983 (1) (intro.) of the statutes, as affected by 2019 Wisconsin
11 Act 185, is amended to read:

12 185.983 (1) (intro.) Every voluntary nonprofit health care plan operated by a
13 cooperative association organized under s. 185.981 shall be exempt from chs. 600 to
14 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44,
15 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93,
16 631.95, 632.72 (2), 632.729, 632.745 to 632.749, 632.775, 632.79, 632.795, 632.798,
17 632.85, 632.853, 632.855, 632.867, 632.87 (2) to (6), 632.871, 632.885, 632.89,
18 632.895 (5) and (8) to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645,
19 and 646, but the sponsoring association shall:

20 **SECTION 32.** 252.02 (8) of the statutes is created to read:

21 252.02 (8) The department may issue an order prohibiting the commencement
22 of any action for eviction under chs. 704 and 799 or for foreclosure under ch. 846 for
23 any period before January 1, 2022. An order issued under this subsection may be
24 applicable statewide or may be geographically limited.

25 **SECTION 33.** 323.19 (3m) of the statutes is created to read:

BILL**SECTION 33**

1 323.19 (3m) Based on guidance provided by the secretary of health services,
2 during the period beginning on the effective date of this subsection [LRB inserts
3 date], and ending on December 31, 2021, the head of each state agency and each local
4 health department shall determine which public employee positions within the
5 respective state agency or local government are critical for the purposes of s. 40.26
6 (7).

7 **SECTION 34.** 323.19 (3p) of the statutes is created to read:

8 323.19 (3p) The secretary of health services shall determine which workers are
9 critical workers for the purposes of s. 102.03 (7).

10 **SECTION 35.** 323.19 (4) (b) of the statutes, as created by 2019 Wisconsin Act 185,
11 is amended to read:

12 323.19 (4) (b) ~~During the public health emergency declared on March 12, 2020,~~
13 ~~by executive order 72~~ period beginning on the effective date of this paragraph
14 [LRB inserts date], and ending on December 31, 2021, the head or governing body
15 of a state entity may waive a statutory or other requirement imposed, administered,
16 or enforced by the state entity that an individual appear in person if the head or
17 governing body finds that ~~the waiver assists in the state's response to the public~~
18 ~~health emergency or that enforcing the requirement may increase the public health~~
19 risk.

20 **SECTION 36.** 323.267 of the statutes is created to read:

21 **323.267 Waivers of certain interest, penalties, and payments. (1)** In this
22 section:

23 (a) "Agency" means any office, department, agency, institution of higher
24 education, association, society, or other body in state government created or
25 authorized to be created by the constitution or any law, including any authority

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1 created in subch. II of ch. 114 or in ch. 231, 232, 233, 234, 237, 238, or 279, but not
2 including the legislature or the courts.

3 (b) “Debtor” means a person who owes a debt to an agency or a local
4 governmental unit.

5 (c) “Effective period” means the period beginning on the effective date of this
6 paragraph ... [LRB inserts date], and ending on December 31, 2021.

7 (d) “Local governmental unit” means a political subdivision of this state, a
8 special purpose district in this state, an agency or corporation of a political
9 subdivision or special purpose district, or a combination or subunit of any of the
10 foregoing.

11 (2) Each agency and local governmental unit may waive any interest, penalty,
12 or payment of a debtor that accrues or becomes due during the effective period with
13 respect to a debt the debtor owes the agency or local governmental unit.

14 **SECTION 37.** 323.2912 of the statutes, as created by 2019 Wisconsin Act 185,
15 is amended to read:

16 **323.2912 Suspension of limited term appointment hours.**

17 Notwithstanding s. 230.26 (1), the director of the bureau of merit recruitment and
18 selection in the division of personnel management in the department of
19 administration may increase or suspend the number of hours for a limited term
20 appointment for the duration of the public health emergency declared period
21 beginning on March 12, 2020, by executive order 72 and ending on December 31,
22 2021.

23 **SECTION 38.** 323.2913 of the statutes, as created by 2019 Wisconsin Act 185,
24 is amended to read:

BILL**SECTION 38**

1 **323.2913 Use of annual leave during probationary period by state**
2 **employee.** Notwithstanding s. 230.35 (1) (b), a state employee may take annual
3 leave within the first 6 months of the employee's probationary period upon initial
4 appointment during the ~~public health emergency declared~~ period beginning on
5 March 12, 2020, by executive order 72 and ending on December 31, 2021. If an
6 employee who has taken annual leave under this section terminates his or her
7 employment before earning annual leave equivalent to the amount of annual leave
8 the employee has taken, the appointing authority shall deduct the cost of the
9 unearned annual leave from the employee's final pay.

10 **SECTION 39.** 450.11 (5) (br) 2. d. of the statutes is amended to read:

11 450.11 (5) (br) 2. d. A pharmacist may not extend a prescription order under
12 subd. 1. for a particular patient if a prescription order was previously extended under
13 subd. 1. for that patient during the applicable period described in subd. 3.

14 **SECTION 40.** 450.11 (5) (br) 3. of the statutes, as created by 2019 Wisconsin Act
15 185, is renumbered 450.11 (5) (br) 3. (intro.) and amended to read:

16 450.11 (5) (br) 3. (intro.) This paragraph applies only ~~during~~ as follows:

17 a. During the public health emergency declared on March 12, 2020, by
18 executive order 72, and for 30 days after the conclusion of that public health
19 emergency. ~~During that time,~~

20 4. While this paragraph applies as specified in subd. 3., it supersedes par. (bm)
21 to the extent of any conflict.

22 **SECTION 41.** 450.11 (5) (br) 3. b. of the statutes is created to read:

23 450.11 (5) (br) 3. b. During the period beginning on the effective date of this
24 subd. 3. b. [LRB inserts date], and ending on December 31, 2021.

25 **SECTION 42.** 609.205 (1) of the statutes is repealed.

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1 **SECTION 43.** 609.205 (2) and (3) (intro.) and (a) of the statutes, as created by
2 2019 Wisconsin Act 185, are amended to read:

3 609.205 (2) All of the following apply to a defined network plan or preferred
4 provider plan ~~during the state of emergency related to public health declared under~~
5 ~~s. 323.10 on March 12, 2020, by executive order 72, and for the 60 days following the~~
6 ~~date that the state of emergency terminates~~ before January 1, 2022:

7 (a) The plan may not require an enrollee to pay, including cost sharing, for a
8 service, treatment, or supply provided by a provider that is not a participating
9 provider in the plan's network of providers more than the enrollee would pay if the
10 service, treatment, or supply is provided by a provider that is a participating
11 provider. This subsection applies to any service, treatment, or supply that is related
12 to diagnosis or treatment for COVID-19 and to any service, treatment, or supply that
13 is provided by a provider that is not a participating provider because a participating
14 provider is unavailable due to the ~~public health emergency~~ COVID-19 pandemic.

15 (b) The plan shall reimburse a provider that is not a participating provider for
16 a service, treatment, or supply provided under the circumstances described under
17 par. (a) at ~~225~~ 250 percent of the rate the federal Medicare program reimburses the
18 provider for the same or a similar service, treatment, or supply in the same
19 geographic area.

20 **(3)** (intro.) ~~During the state of emergency related to public health declared~~
21 ~~under s. 323.10 on March 12, 2020, by executive order 72, and for the 60 days~~
22 ~~following the date that the state of emergency terminates~~ Before January 1, 2022,
23 all of the following apply to any health care provider or health care facility that
24 provides a service, treatment, or supply to an enrollee of a defined network plan or
25 preferred provider plan but is not a participating provider of that plan:

BILL**SECTION 43**

1 (a) The health care provider or facility shall accept as payment in full any
2 payment by a defined network plan or preferred provider plan that is at least ~~225~~ 250
3 percent of the rate the federal Medicare program reimburses the provider for the
4 same or a similar service, treatment, or supply in the same geographic area.

5 **SECTION 44.** 609.719 of the statutes is created to read:

6 **609.719 Telehealth services.** Limited service health organizations,
7 preferred provider plans, and defined network plans are subject to s. 632.871.

8 **SECTION 45.** 632.871 of the statutes is created to read:

9 **632.871 Telehealth services. (1) DEFINITIONS.** In this section:

10 (a) “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

11 (b) “Self-insured health plan” has the meaning given in s. 632.85 (1) (c).

12 (c) “Telehealth” means a practice of health care delivery, diagnosis,
13 consultation, treatment, or transfer of medically relevant data by means of audio,
14 video, or data communications that are used either during a patient visit or
15 consultation or are used to transfer medically relevant data about a patient.

16 **(2) COVERAGE DENIAL PROHIBITED.** No disability insurance policy or self-insured
17 health plan may deny coverage before January 1, 2022, for a treatment or service
18 provided through telehealth if that treatment or service is covered by the policy or
19 plan when provided in person by a health care provider.

20 **(3) RULE MAKING.** The commissioner may promulgate any rules necessary to
21 implement this section.

22 **SECTION 46.** 632.895 (14g) (b) of the statutes, as created by 2019 Wisconsin Act
23 185, is repealed and recreated to read:

24 632.895 **(14g)** (b) Before January 1, 2022, every disability insurance policy, and
25 every self-insured health plan of the state or of a county, city, town, village, or school

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1 district, that generally covers testing and treatment for infectious diseases shall
2 provide coverage of diagnosis of and testing and treatment for COVID-19, including
3 any prescription drugs, and administration of any vaccination developed to prevent
4 COVID-19 without imposing any copayment or coinsurance on the individual
5 covered under the policy or plan.

6 **SECTION 47.** 632.895 (16v) (a) (intro.) of the statutes, as affected by 2019
7 Wisconsin Act 185, is amended to read:

8 632.895 (16v) (a) (intro.) During the period covered by the state of emergency
9 related to public health declared by the governor on March 12, 2020, by executive
10 order 72 before January 1, 2022, an insurer offering a disability insurance policy that
11 covers prescription drugs, a self-insured health plan of the state or of a county, city,
12 town, village, or school district that covers prescription drugs, or a pharmacy benefit
13 manager acting on behalf of a policy or plan may not do any of the following in order
14 to maintain coverage of a prescription drug:

15 **SECTION 48.** 655.0025 of the statutes is created to read:

16 **655.0025 Participation during public health emergency.** Before January
17 1, 2022, all of the following apply to a physician or nurse anesthetist for whom this
18 state is not a principal place of practice but who is authorized to practice in this state
19 on a temporary basis:

20 (1) The physician or nurse anesthetist may fulfill the requirements of s. 655.23
21 (3) (a) by filing with the commissioner a certificate of insurance for a policy of health
22 care liability insurance issued by an insurer that is authorized in a jurisdiction
23 accredited by the National Association of Insurance Commissioners.

24 (2) The physician or nurse anesthetist may elect, in the manner designated by
25 the commissioner by rule under s. 655.004, to be subject to this chapter.

BILL**SECTION 49****1 SECTION 49. Nonstatutory provisions.**

2 (1) PUPIL ASSESSMENTS; EXEMPTION 2020-21 SCHOOL YEAR. Sections 115.7915 (5) (b)
3 and (6) (j), 118.016 (1) (b), 118.30 (1m), (1r), (1s), and (1t), 118.40 (2r) (d) 2. and (2x)
4 (d) 2., 118.60 (7) (b) 1., 119.23 (7) (b) 1., and 121.02 (1) (r) and (s) do not apply in the
5 2020-21 school year.

6 (2) UNEMPLOYMENT INSURANCE; REGISTRATION FOR WORK AND WORK SEARCH
7 WAIVERS.

8 (a) Notwithstanding s. 108.04 (2) (b), (bb), or (bd) or 108.062 (10m), the
9 department of workforce development may promulgate rules for additional waivers
10 of the registration for work and work search requirements under s. 108.04 (2) (a) 2.
11 and 3. for the period beginning on the effective date of this paragraph and ending on
12 January 1, 2022. The department of workforce development may use the procedure
13 under s. 227.24 to promulgate a rule under this paragraph. Notwithstanding s.
14 227.24 (1) (a) and (3), the department is not required to provide a finding of
15 emergency for a rule promulgated under this paragraph. Notwithstanding s. 227.24
16 (1) (c) and (2), a rule promulgated under this paragraph remains in effect until
17 January 1, 2022.

18 (b) Notwithstanding s. 108.04 (2) (bm), a claimant may receive unemployment
19 insurance benefits for any week in which the claimant failed to comply with the
20 registration for work or work search requirements under s. 108.04 (2) (a) 2. or 3. or
21 failed to provide verification to the department of workforce development that the
22 claimant complied with those requirements if the department has waived those
23 requirements under rules promulgated under par. (a).

November 19, 2020

Dear Members of the Unemployment Insurance Advisory Council:

The Department promulgated two emergency rules in response to the COVID-19 pandemic to mitigate the economic burden of the pandemic on Wisconsin employers. The emergency rules are:

- Emergency Rule 2011, DWD Ch. 113, related to waiving interest in limited circumstances for employers subject to reimbursement financing when reimbursements are delinquent due to COVID-19.
- Emergency Rule 2018, DWD Ch. 102, related to employer contribution rates for 2021.

The Council unanimously supported the first 60-day extensions of these emergency rules. JCRAR approved the first 60-day extensions of these rules: Emergency Rule 2011 is in effect through December 31, 2020 and Emergency Rule 2018 is in effect through January 24, 2021.

These emergency rules implement the recent changes to federal law regarding states “non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.” 42 U.S.C. § 1103(h)(3)(B). Implementing this new federal law ensures that Wisconsin receives additional federal funding to administer the unemployment insurance program.

And, Emergency Rule 2018 ensures that the Legislature’s policy goals of 2019 Act 185 are met by setting employer contribution rates for 2021 without regard to the benefits paid from March 15-June 30, 2020. The Department issues contribution rates for 2021 for some employers in early 2021, so the extension of Emergency Rule is needed to ensure that those employers’ rates are consistent with Act 185. The Department will not complete the recharging of benefits to the interest and penalty appropriation for reimbursable employers until 2021, so an extension of the interest waiver created by Emergency Rule 2011 is also necessary.

The pandemic continues to burden Wisconsinites and the emergency that these rules address still exists.

The Department will again request 60-day extensions of these emergency rules from the Joint Committee for the Review of Administrative Rules and I ask the Council to again support these requests. The extensions will ensure that DWD may continue to administer the unemployment insurance program as efficiently as possible during the pandemic and that employers face fewer economic burdens during the recovery period. Please direct any questions about the emergency rules to Janell Knutson, Director of the Bureau of Legal Affairs.

Thank you again for your continued support of the Unemployment Insurance program.

Sincerely,



Robert Cherry, Deputy Secretary

**ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
EMERGENCY RULE**

The Wisconsin Department of Workforce Development adopts the following emergency rule *to amend* DWD 123.01 and *to create* DWD 123.04, relating to benefit charges for initial claims related to the public health emergency declared by Executive Order 72.

The Governor approved the scope statement for this rule, SS 144-20, on October 28, 2020. The scope statement was published in register No. 779A1, on November 2, 2020. The notice of preliminary hearing and comment period on the scope statement was published on November 2, 2020, in register No. 779A1. The preliminary hearing on the scope statement was held on November 9, 2020. The Department received no comments at the preliminary hearing. The Department approved the scope statement on November 16, 2020. This rule was approved by the Governor on November [REDACTED], 2020.

Analysis Prepared by the Department of Workforce Development

Finding of Emergency

By Executive Order 72, the Governor declared a public health emergency to protect the health and well-being of the state's residents and directed state agencies to assist as appropriate in the State's ongoing response to the public health emergency. On March 13, 2020, the President declared a national emergency concerning the COVID-19 pandemic. Due to the pandemic, many businesses have temporarily or permanently closed, resulting in significant business income reduction and layoffs. On April 4, 2020, the President issued a declaration under the Stafford Act that a major disaster exists in Wisconsin, beginning January 30, 2020 and continuing, due to the COVID-19 pandemic.

Under 2019 Wisconsin Act 185, s. 50, which created s. 108.07 (5) (bm), Stats., the Department of Workforce Development is directed to charge unemployment benefits for initial claims that are related to the public health emergency first declared on March 12, 2020, by Executive Order 72, to the balancing account of the Trust Fund for contribution employers. For reimbursable employers, the Department charges such benefits to the interest and penalty appropriation. This treatment of claims charging applies to weeks of benefits payable from the week of March 15, 2020 through December 26, 2020.

2019 Act 185 also created s. 108.04 (2) (d), Stats., which requires employees and employers to "indicate whether a claim for regular benefits is related to the public health emergency declared on March 12, 2020, by executive order 72" when the Department requests. The statute does not provide a deadline for employees or employers to submit the information. That paragraph further provides that the Department "may specify the information required to be provided."

The Department's antiquated computer systems are ill-equipped to handle the changes in charges from the employers' accounts to the balancing account or interest and penalty appropriation. Each weekly claim to be recharged under new section 108.07 (5) (bm), Stats., requires

Department personnel to manually change the benefit charges from the employer's account, after any federal funds have been appropriately applied, to the balancing account or interest and penalty appropriation. The Department estimates that this manual process will take approximately 15 minutes for each weekly claim. Given the high volume of claims being filed during the pandemic, the Department expects that the thousands of hours of manual work to complete the charging changes will not be completed until 2021.

Under ss. 108.02 (8), 108.02 (22), and 108.18 (4), Stats., "an employer's contribution rate on the employer's payroll for a given calendar year shall be based on the reserve percentage of the employer's account as of the applicable computation date," s. 108.18 (4), Stats., which is June 30 of each year. Section 108.02 (22), Stats., requires the Department to determine the status of an employer's account when setting the reserve percentage for contribution purposes as of the computation date.

If the recharging of benefits from employer accounts to the balancing account is not completed by June 30, 2021 for contribution employers, those employers' contribution rates for 2022 could be set higher than they should be under the charging relief enacted by 2019 Act 185. Contribution rates that are incorrectly set higher than they should be could adversely affect employers' abilities to recover financially from the economic downturn caused by the pandemic.

If the recharging of benefits from employer accounts to the interest and penalty appropriation is not completed as soon as possible for reimbursable employers, those employers will continue to receive monthly bills for reimbursements that they should not be required to pay under 2019 Act 185 and that they might not be able to afford to pay due to the economic downturn caused by the pandemic. This rule sets a deadline to submit requests for charging relief to ensure that all recharging work is completed by the June 30, 2021 deadline.

Statutes Interpreted

Sections 108.04 (2) (d) and 108.07 (5) (bm), Stats., which are discussed in the above Finding of Emergency.

Statutory Authority

Section 108.14 (2), Stats.

Explanation of Statutory Authority

The Department has specific and general authority to establish rules interpreting and clarifying provisions of ch. 108, Stats., unemployment insurance and reserves, and general authority for promulgating rules with respect to ch. 108, Stats., under s. 108.14 (2), Stats.

Related Statutes or Rules

None.

Plain Language Analysis

The emergency rule determines the information that employers must submit to request charging relief for initial claims filed while Executive Order 72 was in effect and after it expired, as permitted by section 108.04 (2) (d), Stats. This rule will affect calculation of contribution rates starting with 2022.

If a claimant's most recent employment separation is not due to a labor dispute, quit, discharge for misconduct, or discharge for substantial fault, and the claimant's initial claim is for a benefit year beginning on or after March 15, 2020 through May 16, 2020, the Department will presume that the claim relates to the public health emergency declared on March 12, 2020, by Executive Order 72. All employers who paid base period wages to the claimant will be relieved of the benefit charges for that claim and employers will not be required to submit the form requesting relief.

An employer that paid base period wages may request charging relief even if the most recent employment separation is due to a labor dispute, quit, discharge for misconduct, or discharge for substantial fault, and the claimant's initial claim is for a benefit year beginning on or after March 15, 2020 through May 16, 2020 if the employer certifies that certain circumstances apply to the initial claim. An employer may also request charging relief for any initial claim for benefit years beginning on or after May 17, 2020 through December 26, 2020 by certifying that certain circumstances apply to the claim. An employer may meet the certification requirement by certifying that any of the following conditions exist:

- The employer's business/operations reduced, suspended, or ceased after experiencing a significant reduction in business due to a Safer at Home order or a government-issued health order that restricts business operations.
- The employer's business/operations reduced, suspended, or ceased due to other businesses (including suppliers) having reduced, suspended, or ceased operations.
- The federal Paycheck Protection Program loan amount was used to pay employees, but the business did not yet reopen.
- The employer provides other information showing that the initial claim relates to the public health emergency declared on March 12, 2020 by Executive Order 72.

This emergency rule sets a deadline by which employers must submit the information required by section 108.04 (2) (d), Stats. The deadline is the latter of February 19, 2021, or 30 days after the Department sent a notification to the employer of an initial claim for benefit years beginning on or after March 15, 2020 through December 26, 2020. This is necessary to ensure that all information regarding the initial claims is submitted in time for processing the recharging of benefits before June 30, 2021, which is the computation date that the Department must use to determine contribution rates for 2022.

This rule also determines the treatment of employers in a claimant's base period who are not the most recent employer of a claimant whose initial claim is related to the public health emergency declared on March 12, 2020, by Executive Order 72. The Department will apply the employer charging provisions of 2019 Wisconsin Act 185 to all base period employers for the claim.

Summary of, and comparison with, existing or proposed federal statutes and regulations

Federal law requires that state unemployment compensation laws conform to and comply with federal requirements. 20 C.F.R. § 601.5.

Under the federal Families First Coronavirus Response Act, Public Law 116-127, specifically Division D, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), a state may receive a share of \$500 million of federal funding for administering the state's unemployment insurance program if the "State has demonstrated steps it has taken or will take to ... non-charge[e] employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers." 42 U.S.C. § 1103 (h) (3) (B). Wisconsin's share of the \$500 million is about \$9.457 million.

Comparison with rules in adjacent states

Illinois does not charge employers for unemployment benefits "for a week of unemployment that begins on or after March 15, 2020, and before December 31, 2020, and is directly or indirectly attributable to COVID-19...." 820 ILCS 405/1502.4(A).

By Executive Order 2020-76, Michigan charges benefits to the unemployment insurance non-chargeable account, unless the employer was determined to have misclassified workers.

Iowa is currently not charging unemployment benefits related to COVID-19 to employer accounts.

By Emergency Executive Order 20-05, Minnesota will "not use unemployment benefits paid as a result of the COVID-19 pandemic in computing the future unemployment tax rate of a taxpaying employer."

Summary of factual data and analytical methodologies

The Department reviewed Wisconsin statutes, administrative rules, and recent changes to federal law to determine the information that employers must submit to receive charging relief. The Department determined that February 19, 2021 is the appropriate deadline for employers to submit the documentation because that date is more than a month after the last day that the Department would notify employers that a timely initial claim that qualifies for charging relief was filed. Employers may still request relief for late initial claims because the deadline is 30 days after the Department notifies the employer of the initial claim. The recharging of claims under section 108.07 (5) (bm), Stats., will be manual and is expected to take many months to complete. The Department must complete the recharging of claims by June 30, 2021 so that employer contribution rates will be correctly set for 2022. The February 19, 2021 deadline for

employers to submit the information is necessary to ensure that all required work to change the charging of the claims is completed by June 30, 2021.

In particular, the Department reviewed Wisconsin statutes and the possible effects of charging benefits under section 108.07 (5) (bm), Stats., to determine the treatment of employers in a claimant's base period who are not the most recent employer of a claimant whose initial claim is related to the public health emergency declared on March 12, 2020, by Executive Order 72. The Department determined that the employer non-charging provisions of 2019 Wisconsin Act 185 apply to all employers in a claimant's base period because section 108.07 (5) (bm) does not permit only some employers in a base period to receive charging relief.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis

Under 2019 Wisconsin Act 185, s. 50, 100% of the unemployment insurance benefits for initial claims related to the public health emergency declared on March 12, 2020 by Executive Order 72 will be charged to the balancing account of the Trust Fund for employers subject to contribution financing. Fifty percent of the unemployment insurance benefits for initial claims related to the public health emergency declared on March 12, 2020 by Executive Order 72 will be charged to the interest and penalty appropriation for employers subject to reimbursement financing; the other 50% will be paid by the federal government. The charging relief for employers under state law is effective for state unemployment insurance benefits paid for the period of March 15, 2020 through December 26, 2020. However, charges for the first week of unemployment and for benefits paid under work share plans will be charged to the federal government during that period.

Section 108.04 (2) (d), which was created by Act 185, requires claimants and employers to indicate whether a claim for regular benefits is related to the public health emergency declared on March 12, 2020, by Executive Order 72. This is necessary for the Department to properly apply section 108.07 (5) (bm), Stats., which, as described above, provides for the charging of certain benefits to the balancing account or interest and penalty appropriation. Further, under section 108.07 (5) (bm) 2. b., Stats., employers will not receive relief from benefit charges unless they timely and adequately provide the information necessary for the Department to determine how to charge the claim. Because the claim charging provisions of section 108.07 (5) (bm), Stats., will involve manual processes, the Department needs enough time to complete the work before the June 30, 2021 computation date, which will determine contribution rates for 2022.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business

This emergency rule is expected to have a positive economic impact on employers subject to contribution financing, which may include small businesses, if those employers are required to

submit information to the Department to request charging relief, do so by the deadline set by this emergency rule, and receive charging relief as a result.

Agency contact person

Questions related to this rule may be directed to:

Janell Knutson, Director, Bureau of Legal Affairs
Division of Unemployment Insurance
Department of Workforce Development
P.O. Box 8942
Madison, WI 53708
Telephone: (608) 266-1639
E-Mail: Janell.Knutson@dwd.wisconsin.gov

Place where comments are to be submitted and deadline for submission

Mark Kunkel, Rules and Records Coordinator
Department of Workforce Development
P.O. Box 7946
Madison, WI 53707
E-Mail: DWDAdminRules@dwd.wisconsin.gov

Comments will be accepted until a date to be determined.

1 **SECTION 1.** DWD 123.01 is amended to read:

2 **DWD 123.01 Purpose.** Pursuant to ss. 108.04 (13), 108.09 (1), and 108.14 (2), Stats., in
3 order to determine benefit claims, the department requires employers to provide information
4 about claimants' employment separations, dates of work, wages and other payments, and other
5 issues that may be disqualifying. This chapter specifies the benefit reports that must be filed by
6 employers and the filing requirements for those reports. This chapter also interprets ss. 108.04
7 (2) (d) and 108.07 (5) (bm), Stats., consistently with 42 USC 1103 (h) (3) (B) for determining the
8 information that employers must submit to request charging relief for initial claims filed while
9 Executive Order 72 was in effect and after it expired, the deadline by which employers must
10 submit the information to the department, and the treatment of employers in a claimant's base

1 period who are not the most recent employer of a claimant whose initial claim is related to the
2 public health emergency declared on March 12, 2020, by Executive Order 72.

3 **SECTION 2.** DWD 123.04 is created to read:

4 **DWD 123.04 Requests for Charging Relief.**

5 **(1)** Under s. 108.07 (5) (bm), Stats., the department shall presume that an initial claim for
6 benefit years beginning on or after March 15, 2020 through May 16, 2020 relates to the
7 public health emergency declared on March 12, 2020, by Executive Order 72 unless
8 the claimant’s most recent separation from employment is due to a labor dispute, quit,
9 discharge for misconduct, or discharge for substantial fault. An employer is not
10 required to submit a request for charging relief under s. 108.07 (5) (bm), Stats. for
11 initial claims described in this subsection.

12 **(2)** An employer may submit a request for charging relief under s. 108.07 (5) (bm), Stats.,
13 to the department if any of the following apply:

14 **(a)** The employer paid base period wages to a claimant whose most recent
15 separation from employment is due to a labor dispute, quit, discharge for
16 misconduct, or discharge for substantial fault, and whose initial claim is for
17 benefit years beginning on or after March 15, 2020 through May 16, 2020.

18 **(b)** The claimant’s initial claim is for benefit years beginning on or after May 17,
19 2020 through December 26, 2020.

20 **(3)** An employer may receive charging relief under s. 108.07 (5) (bm), Stats., for benefits
21 for initial claims described in sub. (2) if it provides all information that the department
22 requires on a form that the department specifies.

23 **Note:** The required department form for requesting charging relief is UCB-18823-E, available
24 online at <https://dwd.wisconsin.gov/uitax/relief-of-charging.htm>.

1 **(4)** An employer seeking charging relief under s. 108.07 (5) (bm), Stats., for benefits for
2 initial claims described in sub. (2) may receive charging relief if it certifies that any of
3 the following circumstances apply to the initial claim:

4 **(a)** The employer’s business/operations reduced, suspended, or ceased after
5 experiencing a significant reduction of income due to a Safer at Home order or
6 a government-issued health order that restricts business operations.

7 **(b)** The employer’s business/operations reduced, suspended, or ceased due to other
8 businesses (including suppliers) having reduced, suspended, or ceased
9 operations.

10 **(c)** The federal Paycheck Protection Program loan amount was used to pay
11 employees, but the business did not yet reopen.

12 **(d)** The employer provides other information showing that the initial claim relates
13 to the public health emergency declared on March 12, 2020 by Executive Order
14 72.

15 **(5)** Under s. 108.04 (2) (d), Stats., an employer that is required to submit a request for that
16 relief under this section in order to receive relief under s. 108.07 (5) (bm), Stats., must
17 submit the request for relief so that the department receives it by latter of February 19,
18 2021 or 30 days after the department sent a notification to the employer of an initial
19 claim for benefit years beginning on or after March 15, 2020 through December 26,
20 2020.

21 **(6)** If the department determines that an initial claim relates to the public health emergency
22 declared on March 12, 2020, by Executive Order 72 and that s. 108.07 (5) (bm) 1.,
23 Stats., applies to the claim, the department shall apply the provisions of s. 108.07 (5)

1 (bm) 3., Stats., to all the employers that paid base period wages to the claimant for that
2 claim.

3 **SECTION 3. EFFECTIVE DATE.** This rule shall take effect on December 7, 2020, or upon
4 publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats., whichever is
5 later.

Dated this ___ day of November, 2020.

WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT

By: _____
Robert Cherry, Deputy Secretary

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