



Unemployment Insurance Advisory Council

Meeting Agenda

January 20, 2022, 10:00 a.m.

The public may attend by teleconference:

Phone: 415-655-0003 or 855-282-6330 (toll free) or [WebEx](#)
Meeting Number (Access Code): 2597 693 6750 Meeting Password: DWD1

Meeting Materials: <https://dwd.wisconsin.gov/uibola/uiac/meetings.htm>

1. Call to Order and Introductions
2. Approval of Minutes of the October 21, 2021 Council Meeting
3. Department Update
4. Correspondence
5. Trust Fund Update
6. Legislation Update
 - Classification of motor vehicle operators as independent contractors or employees ([AB 691](#) / [SB 703](#))
7. Rulemaking Update
 - [Emergency Rule 2125](#), DWD ch. 102, 113 & 123 (Eff. 10/3/21 – 3/2/22)
 - Protecting Wisconsin employers from the adverse financial effects of COVID-19
 - Proposed Permanent Rule, DWD ch. 100-150
 - Converting references from Standard Industrial Classification codes to the North American Industry Classification System codes; and other minor technical changes to the unemployment insurance program
 - Proposed Permanent Rule, LIRC ch. 1 ([CR 21-105](#))
 - Rules of procedure of the Labor and Industry Review Commission
 - Presented by Atty. Anita Krasno and Atty. Jeffrey Shampo
8. UIAC Agreed-Upon Bill Drafts

<https://dwd.wisconsin.gov/uibola/uiac/>

9. Research Requests
10. Future Meeting Dates: February 17, 2022; March 17, 2022
11. 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 teleconference.
- ❖ 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 listed in this agenda, under Wis. Stat. § 19.85(1)(ee). The Council may then reconvene again in open session after the closed session.
- ❖ This location is accessible to people with disabilities. If you need an accommodation, including an interpreter or information in an alternate format, please contact the UI Division Bureau of Legal Affairs at 608-266-0399 or dial 7-1-1 for Wisconsin Relay Service.

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 21, 2021

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, David Bohl, Susan Quam, Shane Griesbach, Terry Hayden, Dennis Delie, and Sally Feistel.

Department Staff: Mark Reihl, Andrew Rubsam, Jim Moe, Danielle Williams (Assistant Deputy Secretary), Jennifer Wakerhauser (Chief Legal Counsel), Pam James, Jason Schunk, Linda Hendrickson, Samantha Ahrendt (Staff Counsel), Maegan Evans, and Joe Brockman.

Members of the Public: Keri Routhieaux, Anita Krasno (General Counsel, Labor and Industry Review Commission) and Victor Forberger (Attorney, Wisconsin UI Clinic).

1. Call to Order and Introduction

Ms. Knutson called the Unemployment Insurance Advisory Council to order at 10:05 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 Mr. Hayden, second by Mr. Manley, to approve the minutes of the September 16, 2021, meeting without correction. The vote was taken by roll call and passed unanimously.

3. Department Update

Mr. Reihl announced that this meeting would be his last before retiring. Mr. Reihl stated that he provided notice and would be leaving the Unemployment Insurance Division in early November. Mr. Reihl stated it had been a privilege to serve on the Council, thanked its members for their hard work, and wished them the best in their future deliberations.

Following Mr. Reihl's statement, many members thanked Mr. Reihl for his service and wished him the best in his retirement.

4. Trust Fund Update

Ms. Knutson stated that Tom McHugh will not give his usual report this month. A summary document is included in members' packets. Ms. Knutson stated that the Trust Fund balance as of

October 9th was \$936 million. Ms. Knutson also stated that Mr. McHugh would share more information, including reserve fund highlights, at the next meeting.

5. Rulemaking Update

Ms. Knutson stated there are two emergency rules currently in effect:

Emergency Rule 2118. DWD Ch.102 (Eff. 6/29/21 – 11/25/21):

Employer contribution rates for 2022. This rule is in effect until November 25, 2021.

Emergency Rule 2125. DWD Ch. 102, 113 & 114 (Eff. 10/03/21 – 3/2/22):

Protecting Wisconsin employers from the adverse financial effects of COVID-19. The rule will be in effect until March 2, 2022. A public hearing was held on Tuesday for that emergency rule.

6. Preliminary Draft of UIAC Agreed-Upon Bill

Mr. Rubsam stated the draft was the same as last meeting and was included in the packet. Mr. Rubsam asked whether there were any questions on the draft bill, or on the chart that explains the draft, which was included in the packet.

Mr. Hayden stated he did not have any questions but proposed that the Labor members meet briefly in closed caucus for a final discussion with Labor before approving the draft bill.

Mr. Manley agreed that the same opportunity would be desired by Management and stated that Mr. Gotzler would hopefully be able to join their caucus.

7. Department Proposals for the Wisconsin Unemployment Insurance Law

Ms. Knutson stated the Department proposals that have not yet acted upon are included.

8. Labor Proposals for the Wisconsin Unemployment Insurance Law

Ms. Knutson stated that the Labor proposals that have not been acted upon are included.

9. Management Proposals for the Wisconsin Unemployment Insurance Law

Ms. Knutson stated that the Management proposals that have not been acted upon are included.

10. Research Requests

Ms. Knutson stated there were no new research requests at the last meeting, but that it would remain an agenda item in case of new research requests.

11. Future Meeting Dates

Ms. Knutson stated that the dates of the next two meetings are November 18, 2021 and December 16, 2021; however, if the Council can complete work on the agreed bill today, it

would be up to the Council whether to hold these meetings. Ms. Knutson stated that if the agreed bill is done, usually the Council tries not to have a December meeting to give the Council a break. If the November meeting is needed, one can be scheduled.

Mr. Hayden moved, second by Mr. Manley, that the Council convene in closed caucus to deliberate the items on the agenda and report back. The vote was taken by roll call and passed unanimously.

The Council convened in closed caucus at 10:17 am.

The public portion of the meeting recessed at 10:17 am.

The Council reconvened in open session at 11:08 am.

Sally Feistel joined the meeting. Mr. Gotzler was not available for the meeting.

Mr. Hayden stated that in caucus Labor decided to move forward with the bill draft as presented. Mr. Hayden stated there were no concerns from Labor. Mr. Hayden moved, second by Mr. Manley, to approve the bill draft. The vote was taken by roll call and passed unanimously.

Ms. Knutson stated that the department will prepare the bill for introduction in the Legislature. Ms. Knutson thanked the Council members for their hard work on the agreed bill.

Mr. Manley stated that unless there is an issue with the agreed bill between now and the end of the year, Management preferred that the Council not meet in November and December and focus on the Legislature and getting the bill scheduled for hearing in the Senate and Assembly. Mr. Manley stated that he would be willing to testify in support of the bill.

Mr. Hayden agreed that Labor was fine with not meeting in November and December. Mr. Hayden stated that he would be willing to testify in support of the bill as well.

Ms. Knutson asked members to keep the November and December dates on their schedules in case something comes up with the bill.

12. Adjourn

Motion by Mr. Manley, second by Mr. Hayden, to adjourn the meeting. The vote was taken by voice vote and passed unanimously. The meeting was adjourned at 11:17 am.

December 4, 2021

Dear Unemployment Advisory Council,

I'm writing to ask about the closed Job Center in Fond du Lac. This was a robust and actively engaged Job Center which used to service many job seekers in Fond du lac and the surrounding area. Despite other Job Centers reopening throughout the state, Fond du Lac remains open virtually and via the phone only. Staff at the Fond du Lac Public library have stated that when a customer calls the job center he or she is directed to visit the library for assistance.

I am aware the Job Center WI website posts a partnership with the library (see enclosed LAWDS pdf.), however, staff are not trained as employment and training specialists. Fond du Lac Public Library has a nice display set up for job seekers, nevertheless, trying to meet the needs of individuals looking for jobs should not fall onto the shoulders of library staff. Also, several other job centers in the area closed down permanently including Berlin, Oshkosh, Wautoma and Waupaca centers. Is there a plan in place to meet job seekers in Fond du Lac and these other communities?

Chapter 108.14(4) gives the Department the responsibility to establish and maintain "free public employment offices" allowing for job seekers access to employment assistance. Many job seeking individuals do not have transportation access to neighboring area job centers. Fond du Lac's closest job centers are in Menasha, West Bend and Sheboygan.

Chapter 108.14 Administration

(4) The department may create as many employment districts and district appeal boards and may establish and maintain as many free public employment offices as it deems necessary to carry out the provisions of this chapter. The department shall have power to finance either partly or completely such public employment offices as it deems necessary under this chapter, from the funds appropriated to the department for its expenses under this chapter, whether or not the political subdivision in which such office is located agrees to pay or does pay any part of the expenses of such office.

(5)(a) The council on unemployment insurance shall advise the department in carrying out the purposes of this chapter. The council shall submit its recommendations with respect to amendments of this chapter to each regular session of the legislature, and shall report its views on any pending bill relating to this chapter to the proper legislative committee.

Sheboygan has a population of 49,929 and Fond du Lac has a comparable population of 42,951 (2020 Census). West Bend has a population of 31,590. According to Chapter 108.14(5)(a) one of the Advisory Council's responsibilities is to advise the Department in carrying out the purposes of this chapter. I appeal you recommend the Fond du Lac Job Center be opened to the public for adequate and accessible job seeking purposes and to relieve the library staff of the duties that this center has imposed on them. If there is another plan to meet needs, please make this available to the public.

Sincerely,

Barbara Santiago



Your local public library has the resources you need!

If you need help searching for a new job, it's time to connect with your public library. Professional librarians throughout Wisconsin have the knowledge and training to make your job search a little easier. Library staff can direct you to resources that will help you find job opportunities that fit your goals and needs. Additionally, your local public library offers convenient hours, a range of free and minimal-cost services, and friendly staff you can trust. [Locate Your Public Library.](#)

Here's how your library can help.

Wisconsin public libraries want to make job searching easier for anyone in need of help. Through a partnership with the Department of Workforce Development, job search tools are available to you both online and in person. Services and programs vary by location, so contact your public library to learn how they can help and if an appointment is needed.

Access to Computers, Printers, Internet, and Training:
Technology has changed the way we search for jobs. Your public library provides access to public computers, printers, and free Wi-Fi so you can get online and find the information you need. Many public libraries also offer computer workshops, classes, and training to help navigate your job search.

Career and Job Search Help:
Searching for a job can be overwhelming. It's often difficult to even know where to start. That's where the librarians at your public library can help. They are information specialists. Librarians can help you cut through the clutter with online search support and point you to the best career and job search resources.

Job and Career Tools and Resources:
The public libraries in Wisconsin want to put all job seekers in the best position to succeed. That's why many of our locations offer a wide range of job and career tool services, including:

- Resume building
- Application assistance
- Adult programs
- Interview preparation
- Skills improvement

Find out more information about your public library [here.](#)

Trusted Guidance and a Safe Environment:
Your public library is a safe, respected, and trustworthy presence in the community where all are welcome. Our librarians help people from all walks of life get the help they need in a supportive and comfortable environment. And remember, almost all our library services are free and they're always discreet!

Locate Your Public Library
Connect with your public library and learn how they can help you get started finding your next job.

[Locate Public Library >](#)

Search for a Job or Career
The Job Center of Wisconsin makes it easy to find local and statewide job opportunities that match your skills and experience.

[Search Jobs >](#)



UI Reserve Fund Highlights

January 20, 2022

1. Preliminary calendar year benefit payments through end of year 2021 declined by \$881.6 million or 60.2% when compared to benefits paid through the same period in 2020.

Benefits Paid	2021 <i>(in millions)</i>	2020 <i>(in millions)</i>	Change <i>(in millions)</i>	Change <i>(percent)</i>
Total Regular UI Paid	\$583.1	\$1,464.7	(\$881.6)	(60.2%)

2. Calendar year tax receipts declined by \$36.4 million or 7.3% when compared to tax receipts in 2021.

Tax Receipts	2021 <i>(in millions)</i>	2020 <i>(in millions)</i>	Change <i>(in millions)</i>	Change <i>(percent)</i>
Total Tax Receipts	\$463.5	\$499.9	(\$36.4)	(7.3%)

3. The Trust Fund balance at the end of the year was \$1.1 billion.

4. Interest earned on the Trust Fund is received quarterly. The U.S. Treasury annualized interest rate for fourth quarter 2021 was 1.6%.

UI Trust Fund Interest	2021 <i>(in millions)</i>	2020 <i>(in millions)</i>	Change <i>(in millions)</i>	Change <i>(in percent)</i>
Total Interest Earned	\$20.4	\$37.9	(\$17.5)	(46.2%)

FINANCIAL STATEMENTS

For the Month Ended November 30, 2021



Unemployment Insurance Division

Bureau of Tax and Accounting

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
BALANCE SHEET
FOR THE MONTH ENDED November 30, 2021

<u>ASSETS</u>	<u>CURRENT YEAR</u>	<u>PRIOR YEAR</u>
CASH:		
U.I. CONTRIBUTION ACCOUNT	(82,016.21)	(108,558.96)
U.I. BENEFIT ACCOUNTS	(1,027,187.00)	(11,685,921.60)
U.I. TRUST FUND ACCOUNTS (1) (2) (3)	<u>1,088,592,517.39</u>	<u>1,247,015,448.12</u>
TOTAL CASH	<u>1,087,483,314.18</u>	<u>1,235,220,967.56</u>
ACCOUNTS RECEIVABLE:		
BENEFIT OVERPAYMENT RECEIVABLES	184,426,832.75	88,181,383.79
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(42,670,464.62)</u>	<u>(29,937,556.91)</u>
NET BENEFIT OVERPAYMENT RECEIVABLES	141,756,368.13	58,243,826.88
TAXABLE EMPLOYER RFB & SOLVENCY RECEIV (5) (6)	32,042,137.98	28,996,417.06
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(14,812,411.12)</u>	<u>(16,061,017.43)</u>
NET TAXABLE EMPLOYER RFB & SOLVENCY RECEIV	17,229,726.86	12,935,399.63
OTHER EMPLOYER RECEIVABLES	76,264,947.49	57,847,252.60
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS	<u>(8,497,801.95)</u>	<u>(8,973,682.53)</u>
NET OTHER EMPLOYER RECEIVABLES	67,767,145.54	48,873,570.07
TOTAL ACCOUNTS RECEIVABLE	<u>226,753,240.53</u>	<u>120,052,796.58</u>
TOTAL ASSETS	<u>1,314,236,554.71</u>	<u>1,355,273,764.14</u>
<u>LIABILITIES AND EQUITY</u>		
LIABILITIES:		
CONTINGENT LIABILITIES (7)	112,752,638.80	47,248,113.07
OTHER LIABILITIES	92,633,089.09	14,713,975.38
FEDERAL BENEFIT PROGRAMS	(1,815,647.21)	(6,008,456.86)
CHILD SUPPORT HOLDING ACCOUNT	47,355.00	279,824.00
FEDERAL WITHHOLDING TAXES DUE	159,402.84	1,522,272.00
STATE WITHHOLDING TAXES DUE	1,980,520.13	16,699,051.00
DUE TO OTHER GOVERNMENTS (8)	<u>491,919.92</u>	<u>448,984.07</u>
TOTAL LIABILITIES	206,249,278.57	74,903,762.66
EQUITY:		
RESERVE FUND BALANCE	1,896,480,176.39	1,711,064,393.13
BALANCING ACCOUNT	<u>(788,492,900.25)</u>	<u>(430,694,391.65)</u>
TOTAL EQUITY	<u>1,107,987,276.14</u>	<u>1,280,370,001.48</u>
TOTAL LIABILITIES AND EQUITY	<u>1,314,236,554.71</u>	<u>1,355,273,764.14</u>

1. \$20,221,257 of this balance is for administration purposes and is not available to pay benefits.
2. \$1,528,674 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.
3. \$65,182,247 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-14/21 and 75% of the benefits paid for reimbursable employers for UI Weeks 15/21-36/21 per 2103 of the CARES Act, the Continued Assistance Act, and the American Rescue Act.
4. The allowance for uncollectible benefit overpayments is 34.0%. The allowance for uncollectible delinquent employer taxes is 44.0%. 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 \$210,246. Deferrals for the prior year were \$350,127.
6. \$16,375,381, or 51.1%, of this balance is estimated.
7. \$93,487,705 of this balance is net benefit overpayments which, when collected, will be credited to a reimbursable or federal program. \$19,264,934 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 \$1,774. The 11/30/2021 balance of the Unemployment Interest Payment Fund (DWD Fund 214) is \$51,930. 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 November 30, 2021

	<u>CURRENT ACTIVITY</u>	<u>YTD ACTIVITY</u>	<u>PRIOR YTD</u>
BALANCE AT BEGINNING OF MONTH/YEAR:			
U.I. TAXABLE ACCOUNTS	2,010,807,633.35	2,067,917,022.31	2,909,863,506.12
BALANCING ACCOUNT	<u>(838,764,027.49)</u>	<u>(896,424,588.78)</u>	<u>(916,159,078.07)</u>
TOTAL BALANCE	1,172,043,605.86	1,171,492,433.53	1,993,704,428.05
INCREASES:			
TAX RECEIPTS/RFB PAID	3,871,302.10	327,658,151.68	359,046,745.57
ACCRUED REVENUES	3,245,324.70	7,202,815.51	1,847,360.17
SOLVENCY PAID	317,384.61	134,521,484.56	139,228,855.42
FORFEITURES	(91.00)	9,765.00	95,652.72
BENEFIT CONCEALMENT INCOME	29,216.15	495,625.04	456,334.69
INTEREST EARNED ON TRUST FUND	0.00	16,079,453.13	30,729,457.20
FUTA TAX CREDITS	185.12	9,611.50	5,484.10
OTHER CHANGES	<u>730,422.41</u>	<u>37,759,619.14</u>	<u>84,319,777.68</u>
TOTAL INCREASES	8,193,744.09	523,736,525.56	615,729,667.55
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	(329,831,203.74)	32,985,749.74	1,115,584,561.89
QUIT NONCHARGE BENEFITS	(47,534,400.20)	24,422,713.77	178,799,593.41
OTHER DECREASES	52,056,903.02	58,492,639.08	1,298,720.14
OTHER NONCHARGE BENEFITS	<u>397,558,774.73</u>	<u>471,340,580.36</u>	<u>33,381,218.68</u>
TOTAL DECREASES	72,250,073.81	587,241,682.95	1,329,064,094.12
BALANCE AT END OF MONTH/YEAR:			
RESERVE FUND BALANCE	1,896,480,176.39	1,896,480,176.39	1,711,064,393.13
BALANCING ACCOUNT	<u>(788,492,900.25)</u>	<u>(788,492,900.25)</u>	<u>(430,694,391.65)</u>
TOTAL BALANCE (9) (10) (11) (12)	<u><u>1,107,987,276.14</u></u>	<u><u>1,107,987,276.14</u></u>	<u><u>1,280,370,001.48</u></u>

9. This balance differs from the cash balance related to taxable employers of \$1,050,420,360 because of non-cash accrual items.

10. \$20,221,257 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. \$1,528,674 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

12. \$65,182,247 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-14/21 and 75% of the benefits paid for reimbursable employers for UI Weeks 15/21-36/21 per 2103 of the CARES Act, the Continued Assistance Act, and the American Rescue Act.

**DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
RECEIPTS AND DISBURSEMENTS STATEMENT
FOR THE MONTH ENDED 11/30/21**

<u>RECEIPTS</u>	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE</u>	<u>PRIOR YEAR TO DATE</u>
TAX RECEIPTS/RFB	\$3,871,302.10	\$327,658,151.68	\$359,046,745.57
SOLVENCY	317,384.61	134,521,484.56	139,228,855.42
ADMINISTRATIVE FEE	87.25	606.35	506.93
ADMINISTRATIVE FEE - PROGRAM INTEGRITY	7,218.31	3,328,697.03	3,186,142.97
UNUSED CREDITS	(22,559,855.74)	(19,473,558.46)	1,140,962.14
GOVERNMENTAL UNITS	5,544,096.07	28,629,271.23	57,663,426.23
NONPROFITS	17,731,792.62	39,058,507.81	62,266,137.41
INTERSTATE CLAIMS (CWC)	763,850.62	10,125,338.14	8,495,460.98
ERROR SUSPENSE	(32,087.76)	19,088.11	15,711.91
FEDERAL PROGRAMS RECEIPTS	16,840,661.38	1,813,794,263.04	3,052,609,080.09
OVERPAYMENT COLLECTIONS	2,373,092.03	37,810,237.67	28,815,903.14
FORFEITURES	(91.00)	9,765.00	95,652.72
BENEFIT CONCEALMENT INCOME	29,216.15	495,625.04	456,334.69
EMPLOYER REFUNDS	(590,569.04)	(5,009,065.70)	(3,911,242.62)
COURT COSTS	14,520.21	295,622.00	308,157.42
INTEREST & PENALTY	398,803.59	3,374,345.07	3,288,756.31
CARD PAYMENT SERVICE FEE	1,698.43	25,939.89	18,003.33
BENEFIT CONCEALMENT PENALTY-PROGRAM INTEGRITY	39,382.76	731,658.29	720,840.31
MISCLASSIFIED EMPLOYEE PENALTY-PROG INTEGRITY	500.00	19,945.29	6,384.81
LEVY NONCOMPLIANCE PENALTY-PROGRAM INTEGRITY	1,044.92	30,120.25	16,620.27
SPECIAL ASSESSMENT FOR INTEREST	280.73	15,418.75	20,164.32
LOST WAGES ASSISTANCE (LWA) ADMIN	0.00	365,897.89	0.00
EMERGENCY ADMIN GRANT-EUISAA 2020	0.00	0.00	18,914,772.00
EMERGENCY UC RELIEF (EUR)	663,413.00	32,452,349.00	64,713,242.00
INTEREST EARNED ON U.I. TRUST FUND BALANCE	0.00	16,079,453.13	30,729,457.20
MISCELLANEOUS	1,085.40	90,352.61	219,879.03
TOTAL RECEIPTS	\$25,416,826.64	\$2,424,449,513.67	\$3,828,065,954.58
 <u>DISBURSEMENTS</u>			
CHARGES TO TAXABLE EMPLOYERS	(\$327,498,014.44)	\$86,633,834.35	\$1,145,375,763.66
NONPROFIT CLAIMANTS	(55,429,536.85)	(37,177,266.61)	78,673,121.57
GOVERNMENTAL CLAIMANTS	(37,020,424.63)	(20,207,537.13)	66,773,215.09
INTERSTATE CLAIMS (CWC)	(142,289.92)	5,537,731.37	12,753,142.04
QUITS	(47,534,400.20)	24,422,713.77	178,799,593.41
OTHER NON-CHARGE BENEFITS	435,788,481.77	510,086,459.80	32,182,247.73
CLOSED EMPLOYERS	(62,781.73)	(96,501.83)	(210,464.32)
ERROR CLEARING ACCOUNT	0.00	0.00	200.00
FEDERAL PROGRAMS			
FEDERAL EMPLOYEES (UCFE)	(44,932.03)	3,308,664.33	2,229,768.00
EX-MILITARY (UCX)	(85,609.83)	1,027,503.29	1,527,619.05
TRADE ALLOWANCE (TRA/TRA-NAFTA)	155,927.00	222,272.76	815,344.24
WORK-SHARE (STC)	1,361,534.24	2,368,831.34	0.00
FEDERAL PANDEMIC UC (FPUC)	6,793,173.52	1,236,781,792.25	2,561,018,092.41
LOST WAGES ASSISTANCE \$300 ADD-ON (LWA)	375,333.84	12,730,866.22	198,610,045.00
MIXED EARNERS UC (MEUC)	16,600.00	516,400.00	0.00
PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA)	1,666,991.22	152,429,933.51	173,060,100.56
PANDEMIC EMERGENCY UC (PEUC)	1,852,409.85	378,351,358.08	123,537,772.48
PANDEMIC FIRST WEEK (PFW)	5,435,855.85	25,505,991.63	0.00
EMER UC RELIEF REIMB EMPL (EUR)	52,083,474.80	52,933,613.58	0.00
2003 TEMPORARY EMERGENCY UI (TEUC)	(1.57)	(7,435.19)	(20,253.10)
FEDERAL ADD'L COMPENSATION \$25 ADD-ON (FAC)	(8,204.09)	(158,316.90)	(177,815.66)
FEDERAL EMERGENCY UI (EUC)	(62,314.32)	(1,347,628.74)	(1,709,134.61)
FEDERAL EXTENDED BENEFITS (EB)	(57.42)	4,056,474.18	(173,676.79)
FEDERAL EMPLOYEES EXTENDED BEN (UCFE EB)	1,938.00	24,126.58	0.00
FEDERAL EX-MILITARY EXTENDED BEN (UCX EB)	0.00	4,511.83	(2,918.36)
INTERSTATE CLAIMS EXTENDED BENEFITS (CWC EB)	(161.35)	63,266.86	(4,633.55)
INTEREST & PENALTY	292,043.30	3,143,161.26	3,203,709.98
CARD PAYMENT SERVICE FEE TRANSFER	2,642.37	27,479.61	16,692.48
PROGRAM INTEGRITY	468,557.89	4,799,803.36	3,978,648.65
SPECIAL ASSESSMENT FOR INTEREST	0.00	18,866.74	24,409.12
COURT COSTS	20,410.17	307,053.82	334,222.38
ADMINISTRATIVE FEE TRANSFER	28.67	574.57	619.05
LOST WAGES ASSISTANCE (LWA) ADMIN TRANSFER	0.00	365,897.89	0.00
FEDERAL WITHHOLDING	64,090.16	198,743.16	(1,365,474.06)
STATE WITHHOLDING	(887,992.61)	21,785,922.35	(14,957,667.75)
REED ACT & ARRA SPECIAL ADMIN EXPENDITURES	0.00	585,427.87	0.00
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	0.00	582,373.82
FEDERAL LOAN REPAYMENTS	(185.12)	(9,611.50)	(5,484.10)
TOTAL DISBURSEMENTS	\$37,602,586.54	\$2,469,234,978.46	\$4,564,869,178.42
 NET INCREASE(DECREASE)	 <u>(12,185,759.90)</u>	 <u>(44,785,464.79)</u>	 <u>(736,803,223.84)</u>
 BALANCE AT BEGINNING OF MONTH/YEAR	 <u>\$1,099,669,074.08</u>	 <u>\$1,132,268,778.97</u>	 <u>\$1,972,024,191.40</u>
 BALANCE AT END OF MONTH/YEAR	 <u>\$1,087,483,314.18</u>	 <u>\$1,087,483,314.18</u>	 <u>\$1,235,220,967.56</u>

DEPARTMENT OF WORKFORCE DEVELOPMENT
U.I. TREASURER'S REPORT
CASH ANALYSIS
FOR THE MONTH ENDED November 30, 2021

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BEGINNING U.I. CASH BALANCE	\$1,117,760,880.43	\$1,137,108,896.48	\$1,960,524,402.01
INCREASES:			
TAX RECEIPTS/RFB PAID	3,871,302.10	327,658,151.68	359,046,745.57
U.I. PAYMENTS CREDITED TO SURPLUS	1,038,066.21	152,167,907.35	224,718,184.23
INTEREST EARNED ON TRUST FUND	0.00	16,079,453.13	30,729,457.20
FUTA TAX CREDITS	185.12	9,611.50	5,484.10
TOTAL INCREASE IN CASH	<u>4,909,553.43</u>	<u>495,915,123.66</u>	<u>614,499,871.10</u>
TOTAL CASH AVAILABLE	<u>1,122,670,433.86</u>	<u>1,633,024,020.14</u>	<u>2,575,024,273.11</u>
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	(329,831,203.74)	32,985,749.74	1,115,584,561.89
BENEFITS CHARGED TO SURPLUS	<u>349,997,802.75</u>	<u>496,098,868.90</u>	<u>212,907,109.87</u>
TOTAL BENEFITS PAID DURING PERIOD	<u>20,166,599.01</u>	<u>529,084,618.64</u>	<u>1,328,491,671.76</u>
REED ACT EXPENDITURES	0.00	585,427.87	0.00
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	0.00	582,373.82
EMER UC RELIEF REIMB EMPL EXPENDITURES	<u>52,083,474.80</u>	<u>52,933,613.58</u>	<u>0.00</u>
ENDING U.I. CASH BALANCE (13) (14) (15) (16) (17)	<u><u>1,050,420,360.05</u></u>	<u><u>1,050,420,360.05</u></u>	<u><u>1,245,950,227.53</u></u>

13. \$1,021,900 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. \$18,914,772 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. \$1,528,674 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

17. \$65,182,247 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-14/21 and 75% of the benefits paid for reimbursable employers for UI Weeks 15/21-36/21 per 2103 of the CARES Act, the Continued Assistance Act, and the American Rescue Act.

12/28/2021

BUREAU OF TAX AND ACCOUNTING
U.I. TREASURER'S REPORT
BALANCING ACCT SUMMARY
FOR THE MONTH ENDED November 30, 2021

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BALANCE AT THE BEGINNING OF THE MONTH/YEAR	(\$445,012,611.35)	(\$484,263,072.65)	(\$503,517,440.13)
INCREASES:			
U.I. PAYMENTS CREDITED TO SURPLUS:			
SOLVENCY PAID	317,384.61	134,521,484.56	139,228,855.42
FORFEITURES	(91.00)	9,765.00	95,652.72
OTHER INCREASES	720,772.60	17,636,657.79	85,393,676.09
U.I. PAYMENTS CREDITED TO SURPLUS SUBTOTAL	<u>1,038,066.21</u>	<u>152,167,907.35</u>	<u>224,718,184.23</u>
TRANSFERS BETWEEN SURPLUS ACCTS (18)	(4,178.77)	19,564,194.68	(3,560,367.31)
INTEREST EARNED ON TRUST FUND	0.00	16,079,453.13	30,729,457.20
FUTA TAX CREDITS	185.12	9,611.50	5,484.10
TOTAL INCREASES	<u>1,034,072.56</u>	<u>187,821,166.66</u>	<u>251,892,758.22</u>
DECREASES:			
BENEFITS CHARGED TO SURPLUS:			
QUITS	(47,534,400.20)	24,422,713.77	178,799,593.41
OTHER NON-CHARGE BENEFITS	397,532,202.95	471,676,155.13	34,107,516.46
BENEFITS CHARGED TO SURPLUS SUBTOTAL	<u>349,997,802.75</u>	<u>496,098,868.90</u>	<u>212,907,109.87</u>
REED ACT EXPENDITURES	0.00	585,427.87	0.00
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	0.00	582,373.82
EMER UC RELIEF REIMB EMPL EXPENDITURES	52,083,474.80	52,933,613.58	0.00
BALANCE AT THE END OF THE MONTH/YEAR	<u><u>(846,059,816.34)</u></u>	<u><u>(846,059,816.34)</u></u>	<u><u>(465,114,165.60)</u></u>

18. The 10% writeoff for 2021 was \$4.7 million and is included in this balance. The 10% writeoff shifts employer benefit charges to the balancing account. The 10% writeoff has no effect on receivable balances.



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1380/1
MIM:cjs

2021 ASSEMBLY BILL 691

November 12, 2021 - Introduced by Representatives SPIROS, ARMSTRONG, AUGUST, MACCO, STEFFEN and KNODL, cosponsored by Senators COWLES and BALLWEG. Referred to Committee on Labor and Integrated Employment.

1 **AN ACT** *to amend* 102.07 (8) (a); and *to create* 73.03 (75), 102.07 (8) (bs), 104.01
2 (5k), 104.013, 108.02 (12) (cm), 109.01 (2m) and 109.013 of the statutes;
3 **relating to:** classification of motor vehicle operators as independent
4 contractors or employees.

Analysis by the Legislative Reference Bureau

This bill provides that, for the purposes of the worker's compensation law, the unemployment insurance law, the minimum wage law, the administration of income and franchise taxes, and wage claims, the fact that the operator of a motor vehicle for a motor carrier deploys, implements, or uses a motor carrier safety improvement is not evidence that the operator is an employee rather than an independent contractor.

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

5 **SECTION 1.** 73.03 (75) of the statutes is created to read:
6 73.03 (75) To not consider the deployment, implementation, or use of a motor
7 carrier safety improvement, as defined in s. 102.07 (8) (bs) 1., in determining whether

ASSEMBLY BILL 691**SECTION 1**

1 the operator of a motor vehicle is an employee for the administration of the income
2 and franchise taxes imposed under ch. 71, to the extent that such a determination
3 does not conflict with the federal Internal Revenue Code.

4 **SECTION 2.** 102.07 (8) (a) of the statutes is amended to read:

5 102.07 (8) (a) Except as provided in pars. (b) and ~~(bm)~~ (bs), every
6 independent contractor is, for the purpose of this chapter, an employee of any
7 employer under this chapter for whom he or she is performing service in the course
8 of the trade, business, profession or occupation of such employer at the time of the
9 injury.

10 **SECTION 3.** 102.07 (8) (bs) of the statutes is created to read:

11 102.07 (8) (bs) 1. In this paragraph, “motor carrier safety improvement” means
12 any device, equipment, software, technology, procedure, training, policy, program, or
13 practice intended and primarily used to improve or facilitate compliance with federal
14 or state laws that govern any of the following:

- 15 a. Traffic safety or motor carrier safety.
- 16 b. The safety of motor vehicles.
- 17 c. The safety of operators of motor vehicles.
- 18 d. The safety of other users of highways.

19 2. The deployment, implementation, or use of a motor carrier safety
20 improvement by or as required by a motor carrier or its related entity, as defined in
21 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
22 evidence that an operator of a motor vehicle does not meet the conditions of par. (b).

23 **SECTION 4.** 104.01 (5k) of the statutes is created to read:

24 104.01 (5k) “Motor carrier safety improvement” has the meaning given in s.
25 102.07 (8) (bs) 1.

ASSEMBLY BILL 691

1 **SECTION 5.** 104.013 of the statutes is created to read:

2 **104.013 Certain motor vehicle operators excluded.** For purposes of this
3 chapter, the deployment, implementation, or use of a motor carrier safety
4 improvement by or as required by a motor carrier or its related entity, as defined in
5 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
6 evidence that an individual is an employee of a motor carrier.

7 **SECTION 6.** 108.02 (12) (cm) of the statutes is created to read:

8 108.02 (12) (cm) 1. In this paragraph, “motor carrier safety improvement” has
9 the meaning given in s. 102.07 (8) (bs) 1.

10 2. The deployment, implementation, or use of a motor carrier safety
11 improvement by or as required by a motor carrier or its related entity, as defined in
12 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
13 evidence of control or direction by an employing unit for purposes of pars. (bm) and
14 (c).

15 **SECTION 7.** 109.01 (2m) of the statutes is created to read:

16 109.01 (2m) “Motor carrier safety improvement” has the meaning given in s.
17 102.07 (8) (bs) 1.

18 **SECTION 8.** 109.013 of the statutes is created to read:

19 **109.013 Certain motor vehicle operators excluded.** For purposes of this
20 chapter, the deployment, implementation, or use of a motor carrier safety
21 improvement by or as required by a motor carrier or its related entity, as defined in
22 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
23 evidence that an individual is an employee of a motor carrier.

24

(END)

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

The Wisconsin Department of Workforce Development adopts the following order *to repeal* DWD 111.05 and Figure DWD 147.02; *to amend* DWD 102.02 (2), 102.02 (3) (am), 103.01 (2), 132.04 (1) and (2) (intro.), 132.04 (3), 147.01 (2), 147.02, 149.001 (2) (c) 1.; and *to repeal and recreate* Figure DWD 102.02 (2) and DWD 150 (title), relating to converting references from Standard Industrial Classification codes to the North American Industry Classification System codes; and other minor technical changes to the unemployment insurance program.

The Governor approved the scope statement for this rule, SS 116-21, on December 22, 2021. The scope statement was published in register No. 792B, on December 27, 2021. This rule was approved by the Governor on _____, 2022.

Analysis Prepared by the Department of Workforce Development

Statutes Interpreted

Chapter 108, Stats.

Statutory Authority

Section 108.14 (2), Stats.

Explanation of Statutory Authority

Under s. 108.14 (2), Stats., the department may adopt and enforce all rules which it finds necessary or suitable to carry out the unemployment insurance program.

Plain Language Analysis

The Wisconsin unemployment insurance program is administered under chs. DWD 100-150. The rule replaces current references to Standard Industrial Classification (SIC) codes in chs. DWD 102 and 147 with North American Industry Classifications System (NAICS) codes. NAICS codes were first adopted in 1997 to replace the SIC code system. SIC codes have not been updated since 1987 and do not reflect modern changes in the economy.

Under s. 108.18 (2), Stats., an employer's initial contribution rate to the unemployment trust fund is based on certain factors, including whether the employer is "engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects." *See* s. 108.18 (2) (c), Stats. Chapter DWD 102 requires the Department to determine whether an employer is engaged in those projects based, in part, on

whether the employer's primary business activity is specified in groups assigned in the SIC manual.

In addition, certain employment may be excluded from unemployment insurance coverage, including certain service for a seasonal employer, which is an employer the Department designates as satisfying specified criteria, including being classified by the Department as primarily engaged in the following activities: agricultural production, agricultural services, forestry, or commercial fishing, hunting or trapping. Sections 108.02 (15) (k) 19. and 108.066 (3) (a) 2., Stats. Chapter DWD 147 requires the Department to determine whether an employer is primarily engaged in those activities based on specified groups assigned in the SIC manual.

The rule replaces the above references to SIC codes with NAICS codes to bring the rules up to date with current federal terminology and modern designation codes.

The rule also makes the following minor and technical changes:

- Amends s. DWD 103.01 (2) so that the rule aligns with ch. 108, Stats.
- Repeals s. DWD 111.05, related to filing certain employer reports, because it is obsolete.
- Amends s. DWD 132.04 (1) to correct cross-references to ch. 108, Stats.
- Amends s. DWD 149.001 (2) (c) 1. to correct a reference to the Labor and Industry Review Commission to be consistent with the definition of “commission” in s. DWD 100.02 (9).
- Repeals and recreates the title for ch. DWD 150 from “Miscellaneous” to “Forms” to reflect the purpose of that chapter.

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

Federal regulations require that state laws conform to and substantially comply with federal unemployment laws. 20 C.F.R. § 601.5.

Comparison with rules in adjacent states

Minnesota uses NAICS codes to determine construction industry employers (Minn. Stat. Ann. § 268.051 (5) (b)). Illinois uses SIC codes to determine tax rates (820 Ill. Comp. Stat. Ann. 405/1500 (B)). It appears that Michigan and Iowa do not reference SIC codes or NAICS codes for unemployment employer determinations or tax rates.

Summary of factual data and analytical methodologies

This rule does not depend on complex data analysis. The rule changes are largely minor and technical in nature. The Department reviewed Wisconsin statutes, administrative rules, and other states' laws to determine the use of NAICS codes instead of SIC codes.

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

The rule will have no significant economic effect on small businesses as defined in s. 227.114 (1), Stats. and there is no economic impact created by this rule because the rule changes are either minor and technical or do not affect current employers' tax rates. The Department consulted the Unemployment Insurance Advisory Council regarding the rule.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business

The rule is not expected to have a significant economic effect on small businesses, as defined in s. 227.114 (1), Stats.

Agency contact person

Questions and comments related to this rule may be directed to:

Janell Knutson, Bureau of Legal Affairs Director
Department of Workforce Development
Division of Unemployment Insurance
P.O. Box 8942
Madison, WI 53708-8942
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: DWAdminRules@dwd.wisconsin.gov

Comments will be accepted until a date to be determined.

- 1 **SECTION 1.** DWD 102.02 (2) is amended to read:
- 2 **DWD 102.02 (2)** The department shall examine the factors enumerated in this section to
- 3 determine whether an employer is “engaged in the construction of roads, bridges, highways,

1 sewers, water mains, utilities, public buildings, factories, housing or similar construction projects²²
2 within the meaning of s. 108.18 (2) (c), Stats. The department shall first determine whether the
3 employer's primary type of business activity is one of the activities specified in Figure DWD
4 102.02 (2), which enumerates certain business activities listed in ~~Major Group 17—Construction—~~
5 ~~Special Trade Contractors in the Standard Industrial Classification (SIC) Manual furnished by the~~
6 ~~Federal government~~ the current North American Industry Classification System, Sector 23 –
7 Construction. [See Figure DWD 102.02 (2) following]

8 **SECTION 2.** DWD Figure 102.02 (2) is repealed and recreated to read:

238110 POURED CONCRETE FOUNDATION AND STRUCTURE CONTRACTORS Grouting (i.e., reinforcing with concrete)
238150 GLASS AND GLAZING CONTRACTORS Glass coating and tinting (except automotive) contractors
238160 ROOFING CONTRACTORS Solar reflecting coating, roof, application
238190 OTHER FOUNDATION, STRUCTURE, AND BUILDING EXTERIOR CONTRACTORS Awning installation Epoxy application contractors Ornamental metal work installation contractors
238210 ELECTRICAL CONTRACTORS AND OTHER WIRING INSTALLATION CONTRACTORS Burglar alarm system, electric, installation only Cable splicing, electrical or fiber optic Cable television hookup contractors Communication equipment installation Electronic control system installation Fire alarm system, electric, installation only Intercommunication (intercom) system installation Sound equipment installation Telecommunications equipment and wiring (except transmission line) installation Telephone installation contractors
238220 PLUMBING, HEATING AND AIR-CONDITIONING CONTRACTORS Air system balancing and testing Air-conditioning system (except window) installation Boiler, heating, installation Dust collecting and bag house equipment installation

Fuel oil burner installation

Gas line installation, individual hookup, contractors

Heating equipment installation

Heating contractors

Lawn sprinkler system installation

Refrigeration system (e.g., commercial, industrial, scientific) installation

Water system balancing and testing contractors

238290 OTHER BUILDING EQUIPMENT CONTRACTORS

Boiler and pipe insulation installation

Dismantling large-scale machinery and equipment

Gasoline pump, service station, installation

Lightning rod and conductor installation

Machinery and equipment, large-scale, installation

Machine rigging

Millwrights

Motor vehicle garage and service station mechanical equipment (e.g., gasoline pumps, hoists) installation

Power generating equipment installation

238310 DRYWALL AND INSULATION CONTRACTORS

Fireproofing buildings

238320 PAINTING AND WALL COVERING CONTRACTORS

Electrostatic painting, on-site, contractors

Paint and wallpaper stripping

Paperhanging or removal contractors

Ship painting contractors

Wallpaper stripping

Whitewashing contractors

238330 FLOORING CONTRACTORS

Linoleum, installation only

Parquet flooring installation

Resilient floor tile or sheet (e.g., linoleum, rubber, vinyl), installation only

Vinyl flooring contractors

238340 TILE AND TERRAZZO CONTRACTORS

Ceramic tile installation

Tile (except resilient) laying and setting

238350 FINISH CARPENTRY CONTRACTORS

Countertop, residential-type, installation

Ship joinery contractors

238390 OTHER BUILDING FINISHING CONTRACTORS

Bathtub refinishing, on-site
Building fixture and fitting (except mechanical equipment) installation
Caulking (i.e., waterproofing) contractors
Coating concrete structures with plastics
Dampproofing contractors
Concrete coating, glazing or sealing
Waterproofing contractors
Weather stripping installation
Window shade and blind installation

238910 SITE PREPARATION CONTRACTORS

Boring, for building construction
Core drilling and test boring for construction
Grave excavation contractors
Test boring for construction

238990 ALL OTHER SPECIALTY TRADE CONTRACTORS

Artificial turf installation
Cable splicing (except electrical or fiber optic)
Cleaning building interiors during and immediately after construction
Dewatering contractors
Fence installation (except electronic containment fencing for pets)
House moving (i.e., raising from one site, moving, and placing on a new foundation)
Manufactured (mobile) home set up and tie-down work
Posthole digging
Sandblasting, building exterior
Scaffold erecting and dismantling

1 **SECTION 3.** DWD 102.02 (3) (am) is amended to read:

2 **DWD 102.02 (3) (am)** The department shall determine that the provisions of s. 108.18 (2)
3 (c), Stats., apply to an employer whose primary type of business activity in this state is listed in
4 ~~Major Group 15 – Building Construction – General Contractors and Operative Builders~~ or in ~~Major~~
5 ~~Group 16 – Heavy Construction Other Than Building Construction – Contractors in the Standard~~
6 ~~Industrial Classification (SIC) Manual~~ or is listed in ~~Major Group 17~~ the current North American
7 Industry Classification System, Sector 23 – Construction but not in Figure DWD 102.02 (2), if any
8 of the following factors apply:

1 1. The primary business activity of the employer in this state involves the improvement of
2 real property rather than improvement or refurbishing of personal property.

3 2. Employers within the same listing in the ~~Standard Industrial Classification (SIC)~~
4 ~~Manual~~ current North American Industry Classification System, Sector 23 – Construction as the
5 employer customarily suspend or significantly curtail business operations in this state for
6 regularly recurring periods because of climatic conditions or because of the seasonal nature of
7 the employment.

8 **SECTION 4.** DWD 102.02 (3) (am) (Note) is created to read:

9 **DWD 102.02 (3) (am) Note:** The current North American Industry Classification System
10 standard is available at <https://www.census.gov/naics/>.

11 **SECTION 5.** DWD 103.01 (2) is amended to read:

12 **DWD 103.01 (2) UNPAID MANAGERS OF A LIMITED LIABILITY COMPANY.** Under s. 108.02
13 (15) (k) 8., Stats., service as an unpaid manager of a limited liability company is not
14 “employment”, but all paid managers of a limited liability company are in “employment” under
15 ch. 108, Stats., subject to ~~ss. 108.02 (12),~~ 108.02 (15) (L), and 108.068, Stats.

16 **SECTION 6.** DWD 111.05 is repealed.

17 **SECTION 7.** DWD 132.04 (1) and (2) (intro.) are amended to read:

18 **DWD 132.04 (1) SCOPE.** Under s. ~~108.04 (17) (a), (b) and (e)~~ 108.04 (17) (a) to (i), Stats.,
19 a claimant is ineligible for benefits based upon services provided to or on behalf of an educational
20 institution for weeks of unemployment which occur between academic years or terms or during an
21 established and customary vacation period or holiday recess if the claimant performed the services
22 in the first such year or term or in the year or term immediately before the vacation period or
23 holiday recess and if there is reasonable assurance that the claimant will perform such services for

1 any educational institution in the year or term immediately following the academic year, term,
2 vacation period or holiday recess.

3 (2) STANDARD. (intro.) Except as provided under sub. (3), the terms and conditions of the
4 employment for which the claimant receives assurance from an educational institution under s.
5 ~~108.04 (17) (a), (b) and (c)~~ 108.04 (17) (a) to (i), Stats., for the academic year or term immediately
6 following the weeks of unemployment which occurred between academic years or terms or during
7 an established and customary vacation period or holiday recess are reasonably similar if all of the
8 following apply:

9 SECTION 8. DWD 132.04 (3) is amended to read:

10 DWD 132.04 (3) EFFECT ON ELIGIBILITY. (a) If the employment for which the claimant
11 receives assurance is not reasonably similar under sub. (2), the claimant is eligible for benefits
12 based on services provided to or on behalf of an educational institution between academic years
13 or terms or during established and customary vacation periods or holiday recesses under s. ~~108.04~~
14 ~~(17) (a), (b) and (c)~~ 108.04 (17) (a) to (i), Stats., if otherwise qualified.

15 (b) If the employment for which the claimant receives assurance is reasonably similar under
16 sub. (2), the claimant is not eligible for benefits based on services to or on behalf of an educational
17 institution between academic years or terms or during established and customary vacation periods
18 or holiday recesses under s. ~~108.04 (17) (a), (b) and (c)~~ 108.04 (17) (a) to (i), Stats.

19 SECTION 9. DWD 147.01 (2) is amended to read:

20 DWD 147.01 (2) This chapter ~~enumerates which employers~~ specifies the industries that
21 the department shall consider to be primarily engaged in agricultural production, agricultural
22 services, forestry, or commercial fishing, hunting, or trapping.

23 SECTION 10. DWD 147.02 is amended to read:

1 **DWD 147.02 Affected employers.** An employer shall be considered to be primarily
2 engaged in agricultural production, agricultural services, forestry, or commercial fishing, hunting,
3 or trapping if the department determines that the employer’s primary type of business activity is
4 one of those specified in ~~figure DWD 147.02 and assigns the employer one of the Standard~~
5 ~~Industrial Classification (SIC) codes listed in that figure. [see Figure 147.02 following]~~ the current
6 North American Industry Classification System, Sector 11 – Agriculture, Forestry, Fishing and
7 Hunting.

8 **SECTION 11.** DWD 147.02 (Note) is created to read:

9 **DWD 147.02 Note:** The current North American Industry Classification System standard
10 is available at <https://www.census.gov/naics/>.

11 **SECTION 12.** Figure DWD 147.02 is repealed.

12 **SECTION 13.** DWD 149.001 (2) (c) 1. is amended to read:

13 **DWD 149.001 (2) (c) 1.** Information about the organization of the department’s
14 unemployment insurance division and the ~~labor and industrial review~~ commission.

15 **SECTION 14.** DWD 150 (title) is repealed and recreated to read:

16 **DWD 150 (Title) FORMS.**

17 **SECTION 15. EFFECTIVE DATE.** This rule shall take effect on the first day of the
18 month following publication in the Wisconsin administrative register, as provided under s.
19 227.22 (2) (intro.), Stats.

Signed this _____ day of _____, 2022.

Amy Pechacek, Secretary-designee

Notice of Submittal of Proposed Rule to Legislative Council Rules Clearinghouse

On December 7, 2021, the Labor and Industry Review Commission submitted a proposed rule to the Wisconsin Legislative Council Clearinghouse pursuant to s. 227.15 (1), Wis. Stats.

Analysis

The proposed rules affect Chapters LIRC 1 to 4, relating to the rules of procedure of the Labor and Industry Review Commission.

Statement of Scope

The scope statement for this rule, SS 066-21, was approved by the Governor on July 29, 2021, published in Register No. 788A2 on August 9, 2021, and approved by the Chairman of the Labor and Industry Review Commission on September 13, 2021.

Agency Procedure for Promulgation

A public hearing is required and will be held on:

Wednesday, January 26, 2022
9:00 a.m. to 10:30 a.m.

Room W411A
3319 West Beltline Highway, Fourth Floor
Madison, WI 53713

Virtual Location Link: [Click here to join the meeting](#)

https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F_%23%2F1%2Fmeetup-join%2F19%3ArV2ptNq0s6i1WG52bHw2qYkcf-uHOHBPR9YRQFHERZY1%40thread.tacv2%2F1638822117279%3Fcontext%3D%257b%2522Tid%2522%253a%2522f4e2d11c-fae4-453b-b6c0-2964663779aa%2522%252c%2522Oid%2522%253a%2522051359ad-dd18-4b26-aa49-1ced34c5442f%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=9fa27416-70cf-4ce6-b404-89c25d8f573d&directDl=true&msLaunch=true&enableMobilePage=false&suppressPrompt=true

Agency Organizational Unit Primarily Responsible for Promulgating Rule

Labor and Industry Review Commission

Agency Contact Person

Anita J. Krasno
Labor and Industry Review Commission
3319 West Beltline Hwy
P.O. Box 8126
Madison WI 53708
(608) 266-5700
anita.krasno@wisconsin.gov

NOTICE OF HEARING

The Labor and Industry Review Commission (commission) announces that it will hold a public hearing on a permanent rule revising chs. LIRC 1 to 4 relating to the commission's rules of procedure, at the time and place shown below.

Hearing Information

Date: Wednesday, January 26, 2022

Time: 9:00 a.m. to 10:30 a.m.

Location: Room W411A
3319 West Beltline Highway, Fourth Floor
Madison, WI 53713

Virtual Location Link: [Click here to join the meeting](#)

[https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F %23%2F1%2Fmeetup-join%2F19%3ArV2ptNq0s6i1WG52bHw2qYkcf-uHOHBPR9YRQFHERZY1%40thread.tacv2%2F1638822117279%3Fcontext%3D%257b%2522Tid%2522%253a%2522f4e2d11c-fae4-453b-b6c0-2964663779aa%2522%252c%2522Oid%2522%253a%2522051359ad-dd18-4b26-aa49-1ced34c5442f%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=9fa27416-70cf-4ce6-b404-89c25d8f573d&directDI=true&msLaunch=true&enableMobilePage=false&suppressPrompt=true](https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F%20%23%2F1%2Fmeetup-join%2F19%3ArV2ptNq0s6i1WG52bHw2qYkcf-uHOHBPR9YRQFHERZY1%40thread.tacv2%2F1638822117279%3Fcontext%3D%257b%2522Tid%2522%253a%2522f4e2d11c-fae4-453b-b6c0-2964663779aa%2522%252c%2522Oid%2522%253a%2522051359ad-dd18-4b26-aa49-1ced34c5442f%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=9fa27416-70cf-4ce6-b404-89c25d8f573d&directDI=true&msLaunch=true&enableMobilePage=false&suppressPrompt=true)

Accessibility

Access for individuals with disabilities is available at the hearing location.

Appearances at the Hearing and Submittal of Written Comments

The commission invites the public to attend the hearing and to comment on the proposed rule. Following the public hearing, the hearing record will remain open until 4:30 p.m. on Friday, January 28, 2022, for additional written public comments.

The rule may be reviewed and comments made at <https://docs.legis.wisconsin.gov/code/chr/comment>. The rule may also be reviewed at <https://lirc.wisconsin.gov/default.htm> (click *LIRC News/LIRC Rules Update*) and comments made to LIRC@wisconsin.gov. Comments should be made no later than Friday, January 28, 2022.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

Agency Small Business Regulatory Coordinator

Jennifer Koepf

jennifer.koepf@wisconsin.gov

(608) 266-9850

Approved: December 7, 2021.

/s/ Michael H. Gillick

Michael H. Gillick, Chairman, Labor and Industry Review Commission

STATE OF WISCONSIN
LABOR AND INDUSTRY REVIEW COMMISSION

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE LABOR AND INDUSTRY REVIEW COMMISSION	PROPOSED ORDER OF LABOR AND INDUSTRY REVIEW COMMISSION ADOPTING RULES (CLEARINGHOUSE RULE 21-105)
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PROPOSED ORDER

The Labor and Industry Review Commission proposes an order to: **repeal** LIRC 2 (title), 2.01 (title), (1), and (3), 3 (title), 3.01, 3.03, 3.05, 4 (title), and 4.04; **renumber** LIRC 1.026, 1.03, 1.04 (4) to (7), 1.045, 1.05 NOTE, 1.06, 1.06 NOTE, 1.07, 2.015 (2) to (4) and (6), and 4.03; **renumber and amend** LIRC 1.015, 1.025 (3), 1.027, 1.04 (intro.) and (1) to (3), 1.05, 2.01 (2), 2.015 (title), (1), (5), and (7), 2.05, 3.04, 4.01, and 4.03 (title); **amend** LIRC 1.01, 1.015 (1) and (2), and 1.025 (1), (2), (4); **repeal and recreate** LIRC 1 (title); and **create** 1.015 (3) to (8), and 1.025 (1e), (1m), (3) (b) 1., (4) (a) 1. and 2., and (5) (title), **relating to** the rules of procedure of the labor and industry review commission.

The scope statement for this rule, SS 066-21, was approved by the Governor on July 29, 2021, published in Register No. 788A2 on August 9, 2021, and approved by the Chairman of the Labor and Industry Review Commission on September 13, 2021.

Analysis by the Labor and Industry Review Commission

Statutes interpreted: None

Statutory authority: Wis. Stat. § 103.04(2)

Explanation of agency authority:

“103.04 Labor and industry review commission.

...

“(2) Notwithstanding s. 227.11, the commission may not promulgate rules except that it may promulgate its rules of procedure.”

Related statutes or rule: Wis. Stat. §§ 40.65 (2), 59.88, 62.624, 102.18 (3) and (4), 106.52 (4), 106.56 (4), 108.09 (6), 108.095 (6), 108.10 (2) and (3), 111.39 (5) (a), 303.07 (7) and 303.21, 1981 Wis. Stat. § 66.191.

Plain language analysis:

The Labor and Industry Review Commission's (commission) proposed rule order addresses rules identified as unnecessary or conflicting with statutory provisions, pursuant to the process contained in Wis. Stat. § 227.29. The commission also generally reviewed its rules for accuracy and completeness. The commission also seeks to simplify its rules by combining them into a single chapter. Generally, the proposed rule updates addresses, phone numbers, and web addresses that have changed since the rule was last modified in 2006, and makes other minor changes to reflect statutory changes occurring since then.

In LIRC 1, the general operating rules for the commission, the proposed rule order is revised to reflect statutory changes giving the commission jurisdiction for review in worker classification compliance cases under Wis. Stat. § 103.06(6)(c) (enacted by 2009 Wis. Act 292), cases involving false statements with made with respect to an unemployment insurance to obtain benefits payable to another person under Wis. Stat. § 108.095(6) (enacted by 1999 Wisconsin Act 15), and cases involving certain local government duty disability benefits under Wis. Stat. § 59.88 and 62.624 (2015 Wis. Act 55, Sections 1923p and 1948L). The proposed rule also adds definitions to be used generally in the rules. In recognition of the fact that unemployment insurance decisions are subject to time lapse standards, the proposed rule shortens the time period for filing an answer to a petition from 21 to 14 days. The proposed rule also makes a number of stylistic changes to improve clarity and conform to current rule drafting practices.

The proposed rule merges LIRC 2, regarding procedural rules for filing petitions for commission review of unemployment insurance appeal tribunal decisions, with LIRC 1. The proposed rule reflects statutory changes providing that petitions may no longer be filed with the Department of Workforce Development (Wis. Stat. § 108.09(6), as affected by 2015 Wis. Act 334, Section 50). The proposed rule also reflects current LIRC practice which permits the filing of petitions for review in unemployment insurance and worker classification compliance cases in several ways including by mail, by fax, in person at the commission's office, or online at the commission's website. The rule is further revised to reflect the fact that the provisions contained in LIRC 2 also pertain to review of appeal tribunal decisions regarding worker classification compliance, pursuant to Wis. Stat. § 103.06(6)(c). The revised rule also deletes the provisions relating to judicial review that restate statutory provisions regarding appealing commission decisions to circuit court and are therefore redundant, except with respect to a provision allowing service of pleadings in actions for judicial review on the commission by mail which is retained.

The proposed rule merges LIRC 3, regarding procedural rules for filing petitions for commission review of worker's compensation cases, with LIRC 1. The proposed rule updates the location at which petitions for commission review in worker's compensation cases to reflect statutory changes permitting petitions to be filed with the commission, the Division of Hearings and Appeals of the Department of Administration, or the Department of Workforce Development (see Wis. Stat. § 102.18(3), as affected by 2015 Wis. Act 55, Section 2831d) and clarifies that petitions may be filed in several ways including by mail, by fax, in person, or online at the commission's website. The proposed rule also provides for the remand of compromises to the Division of Hearings and Appeals to reflect amendments to Wis. Stat. §§ 102.18 (4)(d) by Wis. Act. 55, Sections 2843d, and 2847d. The revised rule also deletes the provisions relating to judicial review that restate statutory provisions regarding appealing commission decisions to circuit court and are therefore redundant, except with respect to provisions allowing service of pleadings in actions for judicial review on the commission by mail which is retained.

The proposed rule merges LIRC 4, regarding procedural rules for filing petitions for commission review of equal rights administrative law judge decisions, with LIRC 1. The revised rule also deletes the provisions relating to judicial review that restate statutory provisions regarding appealing commission decisions to circuit court and are therefore redundant.

Summary of, and comparison with, existing or proposed federal regulation: There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comments received during preliminary comment period. The commission solicited comments concerning its scope statement from the bureau of legal affairs in the unemployment insurance division in the department of workforce development; the equal rights division in the department of workforce development; the worker's compensation division in the department of workforce development; and the

division of hearings and appeals in the department of administration. The commission also posted its scope statement and a draft of the proposed rules on its website on November 22, 2021. The only comment the commission received concerned retaining language in current §§ LIRC 2.05 and 3.05 dealing with acceptance of service of pleadings in actions for judicial review by mail, and the commission's proposed rules include a provision retaining that language.

Comparison with rules in adjacent states:

Illinois and Iowa have administrative rules governing procedures by administrative appellate bodies for review of decisions following hearings in unemployment insurance, workers compensation, and equal rights cases. Michigan has administrative rules governing procedures by administrative appellate bodies for review of decisions following hearings in unemployment insurance and workers compensation cases. Minnesota has administrative rules governing procedures by the Minnesota workers' compensation court of appeals for review of decisions following hearings in workers compensation cases. Those rules, which are generally consistent with changes to the commission's procedure made in the proposed rule order, are:

- Ill. Admin. Code tit. 50, sections 9040.10 to 9040.80 (Review by Illinois workers' compensation commission)
- Ill. Admin. Code tit. 56, sections 2720.300 to 2720.245 (Appeals to board of review – Unemployment insurance)
- Ill. Admin. Code tit. 56, sections 5300.910 to 5300.1170 (Review by Illinois human rights commission of administrative law judge decisions regarding civil rights violations involving labor and employment)
- Iowa Admin. Code Rule 161.4.23 et seq. (Review of contested case decisions involving discrimination in employment by Iowa civil rights commission)
- Iowa Admin. Code Rule 486.3.1 et seq. (Unemployment insurance appeals before Iowa employment appeal board)
- Iowa Admin. Code Rule 876.4.27 et seq. (Review of workers compensation contested cases by Iowa workers' compensation commissioner)
- Mich. Admin. Code Rule 37.16 to 37.18 (Fair employment and employment discrimination decisions of the Michigan civil rights commission are appealed to circuit court)
- Mich. Admin. Code Rules 792.11314 to 792.11321 (Workers compensation appeals before the Michigan, Workers' Disability Compensation Appeals Commission created in Executive Reorganization Order No. 2019-13)
- Mich. Admin. Code Rule 792.11417 to 792.11433 (Unemployment insurance appeals before the Michigan Unemployment Insurance Appeals Commission (Commission) created in Executive Order No. 2019-13)
- Minn. Admin. Code Rule 9800.0100 to 9800.1800 (Rules of procedure before the Minnesota workers' compensation court of appeals)

Summary of factual data and analytical methodologies: No factual data or analytical methodologies were used in the preparation of the proposed rule. The proposed rule pertains only to procedure before the commission. It does not establish regulatory standards and includes no substantive or interpretative provisions.

Analysis and supporting documents used to determine effect on small business:

The proposed rule makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector: The proposed rule does not have a fiscal effect on the private sector.

Fiscal Estimate and Economic Impact Analysis: The Fiscal Estimate and Economic Impact Analysis document is attached. The proposed rule pertains only to procedure before the commission. It does not establish regulatory standards and include no substantive or interpretative provisions. There are no anticipated fiscal impacts on state funds, or the liability or revenues of any local unit government. The proposed rule will have no economic impact locally or statewide.

Effect on small business: This proposed rule does not affect small business.

Agency contact person: Please contact Anita J. Krasno at anita.krasno@wisconsin.gov or (608) 266-5700, if you have any questions regarding this proposed rule, including substantive questions on the rules or the internal processing of the rules.

Public Hearing: A public hearing is scheduled on this proposed rule order for:

Wednesday, January 26, 2022
9:00 a.m. to 10:30 a.m.

Room W411A
3319 West Beltline Highway, Fourth Floor
Madison, WI 53713

Virtual Location Link: [Click here to join the meeting](#)

https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F_%23%2F%2Fmeetup-join%2F19%3ArV2ptNq0s6i1WG52bHw2qYkcf-uHOHBPR9YRQFHERZY1%40thread.tacv2%2F1638822117279%3Fcontext%3D%257b%2522Tid%2522%253a%2522f4e2d11c-fae4-453b-b6c0-2964663779aa%2522%252c%2522Oid%2522%253a%2522051359ad-dd18-4b26-aa49-1ced34c5442f%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=9fa27416-70cf-4ce6-b404-89c25d8f573d&directDI=true&msLaunch=true&enableMobilePage=false&suppressPrompt=true

Place where comments are to be submitted and deadline for submission: Comments may be submitted no later than 4:30 p.m. on Friday, January 28, 2022, by email to LIRC@wisconsin.gov; or to <https://docs.legis.wisconsin.gov/code/chr/comment>; or by mail to

Labor and Industry Review Commission
3319 West Beltline Highway
P.O. Box 8126
Madison, WI 53708.

Text of rule

Section 1. LIRC 1 (title) is repealed and recreated to read:

LIRC 1 (title) LABOR AND INDUSTRY REVIEW COMMISSION PROCEDURE

Section 2. LIRC 1.01 is amended to read:

LIRC 1.01 General. The labor and industry review commission has jurisdiction for review of cases arising under ss. 40.65 (2), ~~66.191, 1981 Stats.~~, ss. 59.88, 62.624, 102.18 (3) and (4), 106.52 (4),

106.56 (4), 108.09 (6), 108.095 (6), 108.10 (2) and (3), 111.39 (5) (a), 303.07 (7) and 303.21, Stats., and s. 66.191, 1981 Stats.

Section 3. LIRC 1.015 is renumbered LIRC 1.015 (intro.) amended to read:

LIRC 1.015 Definitions. (intro.) In this chapter:

Section 4. LIRC 1.015 (1) and (2) are amended to read:

(1) ~~In chs. LIRC 1 to 4, “commission”~~ “Commission” means the ~~Wisconsin~~ labor and industry review commission.

(2) ~~In chs. LIRC 1 to 4, “department”~~ “Department” means the ~~Wisconsin~~ department of workforce development.

Section 5. LIRC 1.015 (3) to (8) are created to read:

LIRC 1.015 (3) “Division of hearings and appeals” means the division of hearings and appeals in the department of administration.

(4) “Equal rights case” means a case in which the commission has jurisdiction under s. 106.52 (4), 106.56 (4), or 111.39 (5) (a), Stats.

(5) “Equal rights division” means the division of equal rights in the department.

(6) “Unemployment insurance case” means a case in which the commission has jurisdiction under s. 108.09 (6), 108.095 (6), or 108.10 (2) or (3), Stats.

(7) “Worker classification compliance case” means a case in which the commission has jurisdiction under s. 103.06 (6), Stats.

(8) “Worker’s compensation case” means a case in which the commission has jurisdiction under s. 40.65, 59.88, 62.624, 102.18 (3) or (4), 303.07 (7), or 303.21, Stats., or s. 66.191, 1981 Stats.

Section 6. LIRC 1.025 (1) is amended to read:

LIRC 1.025 (1) WHEN PETITIONS CONSIDERED FILED. Petitions for review may be filed by mail or personal delivery. A petition for review filed by mail or personal delivery is deemed filed only when it is actually received by the ~~commission or by the division of the department office~~ to which the petition is mailed or delivered, except that petitions for review in unemployment insurance cases ~~under s. 108.09 or 108.10, Stats.,~~ and worker classification compliance cases which are filed by mail or personal delivery are deemed filed when received or postmarked as provided for in s. LIRC ~~2.015~~ 1.031.

Section 7. LIRC 1.025 (1e) and (1m) are created to read:

LIRC 1.025 (1e) UNEMPLOYMENT INSURANCE AND WORKER CLASSIFICATION COMPLIANCE PETITIONS; HOW TO FILE. (a) Except as provided in par. (b), a petition in an unemployment insurance case or worker classification compliance case shall be filed with the commission by one of the following methods:

1. By personal delivery at the commission’s office at 3319 West Beltline Highway, 2nd Floor, Madison, WI 53713.

2. By mail to the commission’s office at 3319 West Beltline Highway, P.O. Box 8126, Madison, WI 53708.

3. On the commission’s website as provided in sub. (4).

4. By facsimile transmission to (608) 257-4409.

(1m) WORKER'S COMPENSATION PETITIONS; HOW TO FILE. A petition in a worker's compensation case shall be filed with any of the following:

(a) The commission by any of the following methods:

1. By mail to 3319 West Beltline Highway, P.O. Box 8126, Madison, WI 53708.
2. By personal delivery to 3319 West Beltline Highway, Madison, WI 53713.
3. By facsimile transmission to (608) 267-4409.
4. On the commission's website as provided in sub. (4).

(b) The division of hearings and appeals by any of the following methods:

1. By mail or personal delivery to 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705, or by facsimile transmission to (608) 266-0018.
2. By mail or personal delivery to 819 North Sixth Street, Room 330, Milwaukee, WI 53203, or by facsimile transmission to (414) 227-4012.
3. By mail or personal delivery to 54 Park Place, Suite 900, Appleton, WI 54914, or by facsimile transmission to (920) 832-5355.

(c) The worker's compensation division of the department by any of the following methods:

1. By mail to 201 East Washington Avenue, P.O. Box 7901, Madison, WI 53707.
2. By personal delivery to 201 East Washington Avenue, Madison, WI 53703.
3. By facsimile transmission to (608) 267-0394.

Section 8. LIRC 1.025 (2) is amended to read:

LIRC 1.025 (2) LIMIT ON FILING BY ELECTRONIC DATA TRANSMISSION. ~~Except as provided for in subs. (3) and (4), petitions~~ Petitions for review may not be filed by e-mail or, except as provided in subs. (1), (3), and (4), by any other method of electronic data transmission.

Section 9. LIRC 1.025 (3) is renumbered LIRC 1.025 (3) (a) and amended to read:

LIRC 1.025 (3) PETITIONS FILED BY FACSIMILE TRANSMISSION. (a) ~~Petitions for review may be filed by facsimile transmission.~~ A petition for review transmitted by facsimile is not deemed filed unless and until the petition is received and printed at the recipient facsimile machine of the commission, the division of hearings and appeals, or of the division of the department to which the petition is being transmitted. The party transmitting a petition by facsimile is solely responsible for ensuring its timely receipt. The commission is not responsible for errors or failures in transmission.

(b) ~~2.~~ 2. ~~Except in the case of as provided in subd. 3., a petition for review in fair employment and public accommodations cases under s. 106.52 or 111.39 (5), Stats., where a~~ an equal rights case transmitted by facsimile transmission filed after the regular business hours of the equal rights division shall be is considered filed on the next business day, a petition for review transmitted by facsimile is deemed filed on the date of transmission recorded and printed by the facsimile machine on the petition.

3. If the commission's, the division of hearings and appeals', or department's records indicate receipt of the facsimile at a date later than ~~that shown~~ the date of transmission recorded and printed by the recipient facsimile machine, then the later date shall control.

Section 10. LIRC 1.025 (3) (b) 1. is created to read:

LIRC 1.025 (3) (b) 1. Except as provided in subs. 2 and 3., a petition for review transmitted by facsimile transmission is considered filed on the date of transmission recorded and printed by the recipient facsimile machine.

Section 11. LIRC 1.025 (4) is amended to read:

LIRC 1.025 (4) PETITIONS FILED ON THE COMMISSION'S WEBSITE. (a) Except in ~~the case of petitions for review in fair employment and public accommodations cases under s. 106.52 or 111.39 (5), Stats. equal rights cases,~~ petitions for review may be filed electronically through the internet website of the commission, ~~at the page found at <http://dwd.wisconsin.gov/lirc/petition.htm>.~~ at the following webpages:

(b) Successful filing of a petition for review electronically through the internet website of the commission will result in a display on the petitioner's internet browser of a message confirming that the petition has been successfully filed. A petition for review transmitted electronically through the website of the commission is not deemed filed unless and until the confirmation message is displayed.

(c) The commission is not responsible for errors in transmission that result in failure of a petition to be successfully filed electronically through the website of the commission. A petition for review filed electronically through the internet website of the commission is deemed filed on the date of filing stated on the commission's electronic record of the filing.

Section 12. LIRC 1.025 (4) (a) 1. and 2. are created to read:

LIRC 1.025 (4) (a) 1. For a petition in an unemployment insurance case or worker classification compliance case, https://lirc.wisconsin.gov/ui_appeal.htm.

2. For a petition in a worker's compensation case, https://lirc.wisconsin.gov/wc_appeal.htm.

Section 13. LIRC 1.025 (5) (title) is created to read:

LIRC 1.025 (5) (title). NO FILING BY TELEPHONE.

Section 14. LIRC 1.026, 1.027, 1.03, 1.04, 1.045, 1.05, 1.05 NOTE, 1.06, 1.06 NOTE, and 1.07 are renumbered LIRC 1.041, 1.051, 1.061, 1.071, 1.08, 1.09, 1.09 NOTE, 1.10, 1.10 NOTE and 1.11, and LIRC 1.051, 1.071 (intro.), (1), (2), and (3), and 1.09, as renumbered, are amended to read:

LIRC 1.051 Answers. A party opposing a petition for commission review may file an answer with the commission within ~~24~~ 14 days from the party's receipt of a copy of the petition. A party filing an answer with the commission shall furnish a copy to the opposing party.

LIRC 1.071 Record used for review. (intro.) Review by the commission shall be based on the record of the case including the evidence previously submitted at hearing before the department or division of hearings and appeals. The record of the hearing may be in the form of a written synopsis or a transcript, and may include an audio recording of the hearing. The form of the record of the hearing which the commission uses in its review shall be determined as follows:

(1) Except as provided in subs. (2) through (5), the commission shall base its review on a written synopsis of the testimony taken at the hearing. The synopsis shall be prepared by the department, by the division of hearings and appeals, the commission, or ~~by~~ an outside contractor, from an audio recording of the hearing or from notes taken at the hearing by the administrative law judge. In those cases any party may obtain a copy of the synopsis as provided for in s. LIRC ~~1.045~~ 1.08.

(2) The commission shall base its review on a transcript of the hearing rather than a synopsis if a transcript was prepared and was used by the administrative law judge in deciding the case. In ~~such those~~ cases any party may obtain a copy of the transcript as provided for in s. LIRC ~~1.045~~ 1.08.

(3) Except in unemployment insurance cases and worker classification compliance cases, the commission shall base its review on a transcript of the hearing rather than a synopsis if a party timely requests the commission in writing to conduct its review on the basis of a transcript, the party certifies in

such request that it has ordered preparation of a transcript at the party's own expense, and the party thereafter files a copy of the transcript with the commission and serves a copy of the transcript on all other parties. To be timely under this subsection, a request must be made no later than 14 days after the requesting party's receipt from the commission of written confirmation that a petition for commission review has been filed.

1.09 Hearings. ~~If Except in equal rights cases, if the record in a case is inadequate for the commission to arrive at a decision, the commission shall remand the case to the department of workforce development or division of hearings and appeals, as appropriate,~~ to take additional evidence on behalf of the commission.

Section 15. LIRC 2 (title), 2.01 (title) and (1) are repealed.

Section 16. LIRC 2.01 (2) is renumbered LIRC 1.025 (1e) (b) and amended to read:

LIRC 1.025 (1e) (b) A petition filed by an interstate claimant may be filed ~~at one of the locations in sub. (1) as provided in par. (a)~~ or with a qualified employee of the agent state in which the interstate claimant files his or her claim.

Section 17. LIRC 2.01 (3) is repealed.

Section 18. LIRC 2.015 is renumbered LIRC 1.031 and LIRC 1.031 (title), (1), (5), and (7), as renumbered, are amended to read:

LIRC 1.031 (title) Timeliness of petitions in unemployment insurance cases and worker classification compliance cases.

(1) If the petition is personally delivered, the petition is "received" when the ~~division of unemployment insurance of the department or the~~ commission physically receives the petition.

(5) If the petition is mailed and bears no mark, or bears an illegible mark, the petition is "postmarked" 2 business days prior to the date the petition was physically received by ~~the division of unemployment insurance of the department or the~~ commission.

(7) If the petition is sent using a delivery service other than the United States postal service, and does not bear a delivery service mark which is the equivalent of a United States postal service postmark, or bears an illegible delivery service mark, the petition is "postmarked" 2 business days prior to the date the petition was physically received by ~~the division of unemployment insurance of the department or the~~ commission.

Section 19. LIRC 2.05 is renumbered LIRC 1.14 and amended to read:

LIRC 1.14 Actions for judicial review in unemployment insurance cases, worker classification compliance cases, and worker's compensation cases. ~~Judicial~~ On judicial review of ~~any a~~ commission decision under s. 108.09 or 108.10, Stats., shall be commenced in the manner and upon the grounds specified in ss. 108.09 (7) and 102.23, Stats., and not under ch. 227 or s. 801.02, Stats. Either party may commence a legal action for review of the commission decision in circuit court within 30 days from the date the decision was mailed to the party's last known address. ~~Such action is commenced only by filing a summons and complaint with the circuit court and serving an authenticated copy of the summons and the complaint upon the commission, all within 30 days. Service must be made upon a commissioner of the labor and industry review commission or an agent authorized by the commission to accept service only at the commission's office in Madison. Such service shall be deemed complete service on all parties~~

~~but there shall be left with the person so served as many copies of the summons and complaint as there are defendants. Service in an unemployment insurance case, a worker classification compliance case, or a worker's compensation case, service by mail is effective only if the pleadings are actually received by the commission within the appeal period. The complaint shall state the grounds upon which review is sought. The action shall be commenced against the commission, and the party in whose favor the decision was made shall also be made a defendant. The proceedings shall be in the circuit court of the county where the plaintiff resides except that, if the plaintiff is a state agency, the proceedings shall be in the circuit court of the county where the defendant resides. If the plaintiff is a non-resident of Wisconsin, the proceedings shall be in the circuit court for the county where the claim arose. The proceedings may be brought in any circuit court if all parties stipulate and that court agrees. The appealing party seeking judicial review shall arrange for preparation of the necessary legal documents.~~

Section 20. LIRC 3 (title), 3.01, and 3.03 are repealed.

Section 21. LIRC 3.04 is renumbered LIRC 1.13 and amended to read:

LIRC 1.13 Compromise settlements in worker's compensation cases. ~~Compromise settlements of worker's compensation claims are governed by s. 102.16, Stats., and s. DWD 80.03. Under s. 102.18 (4) (d), Stats., if a compromise is reached while a case is pending commission review, the compromise shall be submitted to the commission, and the commission shall remand the case to the worker's compensation division of the~~ division of hearings and appeals or department, as appropriate, for consideration of the compromise. If the compromise is not approved, the party who filed the petition for commission review may reinstate its petition by notifying the commission. Under s. 102.24 (2), Stats., if a compromise is reached while a case is pending court review of a commission order, remand shall be to the commission and the commission shall then remand the case to the division of hearings and appeals or department, as appropriate, for consideration of the compromise.

Section 22. LIRC 3.05 and 4 (title) are repealed.

Section 23. LIRC 4.01 is renumbered LIRC 1.025 (1s) and amended to read:

LIRC 1.025 (1s) ~~Petitions for commission review; where filed.~~ EQUAL RIGHTS PETITIONS; HOW TO FILE. A petition for commission review ~~of the findings and order of a department of workforce development administrative law judge under s. 106.52 or 111.39 (5), Stats., in an equal rights case shall be filed with the equal rights division of the department at~~ by any of the following locations-methods:

(a) ~~The equal rights division, Milwaukee. By mail or personal delivery to 819 North Sixth Street, Milwaukee, Wisconsin WI 53203 (FAX: 414-227-4981) or by facsimile transmission to (414) 227-4084.~~

(b) ~~The central administrative office of the equal rights division, Madison. By mail to 201 East Washington Avenue, P.O. Box 8928, Madison, Wisconsin WI 53708 (FAX: 608-267-4592); by personal delivery to 201 East Washington Avenue, Madison, WI 53703; or by facsimile transmission to (608) 327-6001.~~

Section 24. LIRC 4.03 is renumbered LIRC 1.12 and LIRC 1.12 (title), as renumbered, is amended to read:

LIRC 1.12 (title) Rehearings in equal rights cases.

Section 25. LIRC 4.04 is repealed.

Section 26. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

(End of text of rule.)

Chapter LIRC 1

LABOR AND INDUSTRY REVIEW COMMISSION PROCEDURE

LIRC 1.01	General.	LIRC 1.071	Record used for review.
LIRC 1.015	Definitions.	LIRC 1.08	Obtaining copy of record.
LIRC 1.02	Petitions for review; appeal period.	LIRC 1.9	Hearings.
LIRC 1.025	Petitions for review; filing.	LIRC 1.10	Oral argument.
LIRC 1.031	Timeliness of petitions in unemployment insurance cases and worker classification compliance cases.	LIRC 1.11	Briefs.
LIRC 1.041	Cross-petitions.	LIRC 1.12	Rehearings in equal rights cases.
LIRC 1.051	Answers.	LIRC 1.14	Actions for judicial review in unemployment insurance cases, worker classification compliance cases, and worker's compensation cases.
LIRC 1.061	Withdrawals.		

LIRC 1.01 General. The labor and industry review commission has jurisdiction for review of cases arising under ss. 40.65 (2), ~~66.191, 1981 Stats., ss. 59.88, 62.624,~~ 102.18 (3) and (4), 106.52 (4), 106.56 (4), 108.09 (6), ~~108.095 (6),~~ 108.10 (2) and (3), 111.39 (5) (a), 303.07 (7) and 303.21, Stats., and s. 66.191, 1981 Stats.

LIRC 1.015 Definitions. In this chapter:

(1) In chs. LIRC 1 to 4, "commission" "Commission" means the Wisconsin labor and industry review commission.

(2) In chs. LIRC 1 to 4, "department" "Department" means the Wisconsin department of workforce development.

(3) "Division of hearings and appeals" means the division of hearings and appeals in the department of administration.

(4) "Equal rights case" means a case in which the commission has jurisdiction under s. 106.52 (4), 106.56 (4), or 111.39 (5) (a), Stats.

(5) "Equal rights division" means the division of equal rights in the department.

(6) "Unemployment insurance case" means a case in which the commission has jurisdiction under s. 108.09 (6), 108.095 (6), or 108.10 (2) or (3), Stats.

(7) "Worker classification compliance case" means a case in which the commission has jurisdiction under s. 103.06 (6), Stats.

(8) "Worker's compensation case" means a case in which the commission has jurisdiction under s. 40.65, 59.88, 62.624, 102.18 (3) or (4), 303.07 (7), or 303.21, Stats., or s. 66.191, 1981 Stats.

LIRC 1.02 Petitions for review; appeal period. All petitions for commission review shall be filed within 21 days from the date of mailing of the findings and decision or order, except that the petition may be filed on the next business day if the 21st day falls on any of the following:

(1) January 1.

(1m) The third Monday in January.

(1r) The third Monday in February.

(3) The last Monday in May.

(4) July 4.

(5) The first Monday in September.

(5m) The second Monday in October.

(5r) November 11.

(6) The fourth Thursday in November.

(7) December 24, 25 or 31.

(8) The Monday following if January 1, July 4 or December 25 falls on Sunday.

(9) Any other day on which mail is not delivered by the postal authorities.

LIRC 1.025 Petitions for review; filing. **(1)** WHEN PETITIONS CONSIDERED FILED. Petitions for review may be filed by mail or personal delivery. A petition for review filed by mail or personal delivery is deemed filed only when it is actually

received by the ~~commission or by the division of the department office~~ to which the petition is mailed or delivered, except that petitions for review in unemployment insurance cases ~~under s. 108.09 or 108.10, Stats., and worker classification compliance cases~~ which are filed by mail or personal delivery are deemed filed when received or postmarked as provided for in s. LIRC ~~2.015~~ 1.031.

(1e) UNEMPLOYMENT INSURANCE AND WORKER CLASSIFICATION COMPLIANCE PETITIONS; HOW TO FILE. (a) Except as provided in par. (b), a petition in an unemployment insurance case or worker classification compliance case shall be filed with the commission by one of the following methods:

1. By personal delivery at the commission's office at 3319 West Beltline Highway, 2nd Floor, Madison, WI 53713.

2. By mail to the commission's office at 3319 West Beltline Highway, P.O. Box 8126, Madison, WI 53708.

3. On the commission's website as provided in sub. (4).

4. By facsimile transmission to (608) 257-4409.

(b) A petition filed by an interstate claimant may be filed ~~at one of the locations in sub. (1)~~ as provided in par. (a) or with a qualified employee of the agent state in which the interstate claimant files his or her claim.

(1m) WORKER'S COMPENSATION PETITIONS; HOW TO FILE. A petition in a worker's compensation case shall be filed with any of the following:

(a) The commission by any of the following methods:

1. By mail to 3319 West Beltline Highway, P.O. Box 8126, Madison, WI 53708.

2. By personal delivery to 3319 West Beltline Highway, Madison, WI 53713.

3. By facsimile transmission to (608) 267-4409.

4. On the commission's website as provided in sub. (4).

(b) The division of hearings and appeals by any of the following methods:

1. By mail or personal delivery to 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705, or by facsimile transmission to (608) 266-0018.

2. By mail or personal delivery to 819 North Sixth Street, Room 330, Milwaukee, WI 53203, or by facsimile transmission to (414) 227-4012.

3. By mail or personal delivery to 54 Park Place, Suite 900, Appleton, WI 54914, or by facsimile transmission to (920) 832-5355.

(c) The worker's compensation division of the department by any of the following methods:

1. By mail to 201 East Washington Avenue, P.O. Box 7901, Madison, WI 53707.

2. By personal delivery to 201 East Washington Avenue, Madison, WI 53703.

3. By facsimile transmission to (608) 267-0394.

(1s) Petitions for commission review; where filed. EQUAL RIGHTS PETITIONS; HOW TO FILE. A petition for commission review ~~of the findings and order of a department of workforce~~

development administrative law judge under s. 106.52 or 111.39 (5), Stats., in an equal rights case shall be filed with the equal rights division of the department at by any of the following locations/methods:

(a) ~~The equal rights division, Milwaukee. By mail or personal delivery to 819 North Sixth Street, Milwaukee, Wisconsin WI 53203 (FAX: 414-227-4981) or by facsimile transmission to (414) 227-4084.~~

(b) ~~The central administrative office of the equal rights division, Madison. By mail to 201 East Washington Avenue, P.O. Box 8928, Madison, Wisconsin WI 53708 (FAX: 608-267-4592); by personal delivery to 201 East Washington Avenue, Madison, WI 53703; or by facsimile transmission to (608) 327-6001.~~

(2) LIMIT ON FILING BY ELECTRONIC DATA TRANSMISSION. Except as provided for in subs. (3) and (4), petitions for review may not be filed by e-mail or, except as provided in subs. (1), (3), and (4), by any other method of electronic data transmission.

(3) PETITIONS FILED BY FACSIMILE TRANSMISSION. (a) ~~Petitions for review may be filed by facsimile transmission.~~ A petition for review transmitted by facsimile is not deemed filed unless and until the petition is received and printed at the recipient facsimile machine of the commission, ~~the division of hearings and appeals, or of the division of the department to which the petition is being transmitted.~~ The party transmitting a petition by facsimile is solely responsible for ensuring its timely receipt. The commission is not responsible for errors or failures in transmission.

1. Except as provided in subs. 2 and 3., a petition for review transmitted by facsimile transmission is considered filed on the date of transmission recorded and printed by the recipient facsimile machine.

(b) 2. Except in the case of as provided in subd. 3., a petition for review in fair employment and public accommodations cases under s. 106.52 or 111.39 (5), Stats., where a an equal rights case transmitted by facsimile transmission filed after the regular business hours of the equal rights division shall be is considered filed on the next business day, ~~a petition for review transmitted by facsimile is deemed filed on the date of transmission recorded and printed by the facsimile machine on the petition.~~

3. If the commission's, ~~the division of hearings and appeals', or department's records indicate receipt of the facsimile at a date later than that shown the date of transmission recorded and printed by the recipient facsimile machine,~~ then the later date shall control.

(4) PETITIONS FILED ON THE COMMISSION'S WEBSITE. (a) Except in the case of petitions for review in fair employment and public accommodations cases under s. 106.52 or 111.39 (5), Stats., equal rights cases, petitions for review may be filed electronically through the internet website of the commission, ~~at the page found at <http://dwd.wisconsin.gov/lirc/petition.htm>.~~ at the following webpages:

1. For a petition in an unemployment insurance case or worker classification compliance case, https://lirc.wisconsin.gov/ui_appeal.htm.

2. For a petition in a worker's compensation case, https://lirc.wisconsin.gov/wc_appeal.htm.

(b) Successful filing of a petition for review electronically through the internet website of the commission will result in a display on the petitioner's internet browser of a message confirming that the petition has been successfully filed. A petition for review transmitted electronically through the website of the commission is not deemed filed unless and until the confirmation message is displayed.

(c) The commission is not responsible for errors in transmission that result in failure of a petition to be successfully filed electronically through the website of the commission. A petition for review filed electronically through the internet

website of the commission is deemed filed on the date of filing stated on the commission's electronic record of the filing.

(5) **NO FILING BY TELEPHONE.** Petitions for review may not be filed by telephone.

LIRC 1.031 Timeliness of petitions in unemployment insurance cases and worker classification compliance cases.

(1) If the petition is personally delivered, the petition is "received" when the ~~division of unemployment insurance of the department or the~~ commission physically receives the petition.

(2) If the petition is mailed and bears only a United States postal service postmark, the petition is "postmarked" on the date of that postmark.

(3) If the petition is mailed and bears both a United States postal service postmark and a private meter mark, the petition is "postmarked" on the date of the United States postal service postmark.

(4) If the petition is mailed and bears only a private meter mark, the petition is "postmarked" on the date of that mark.

(5) If the petition is mailed and bears no mark, or bears an illegible mark, the petition is "postmarked" 2 business days prior to the date the petition was physically received by ~~the division of unemployment insurance of the department or the~~ commission.

(6) If the petition is sent using a delivery service other than the United States postal service, and bears a delivery service mark which is the equivalent of a United States postal service postmark, the petition is "postmarked" on the date of that delivery service mark.

(7) If the petition is sent using a delivery service other than the United States postal service, and does not bear a delivery service mark which is the equivalent of a United States postal service postmark, or bears an illegible delivery service mark, the petition is "postmarked" 2 business days prior to the date the petition was physically received by ~~the division of unemployment insurance of the department or the~~ commission.

LIRC 1.041 **Cross-petitions.** Any party may file a petition for review, whether or not any other party has already filed a petition for review. The filing of a petition for review by one party does not extend the time within which any other party may file a petition for review. All petitions for review, including cross-petitions, are subject to the requirements of s. LIRC 1.02 concerning timeliness.

LIRC 1.051 **Answers.** A party opposing a petition for commission review may file an answer with the commission within ~~21~~ 14 days from the party's receipt of a copy of the petition. A party filing an answer with the commission shall furnish a copy to the opposing party.

LIRC 1.061 **Withdrawals.** Requests to withdraw petitions shall be in writing. The commission may deny a request by any party to withdraw a petition if the commission has already reviewed and decided the case, but not yet issued its decision, or if the commission considers that withdrawal is not in the best interests of proper administration of the program involved. Denials of withdrawals shall be in writing, but may be included in the findings and decision of the commission.

LIRC 1.071 **Record used for review.** Review by the commission shall be based on the record of the case including the evidence previously submitted at hearing before the department or division of hearings and appeals. The record of the hearing may be in the form of a written synopsis or a transcript, and may include an audio recording of the hearing. The form of the record of the hearing which the commission uses in its review shall be determined as follows:

(1) Except as provided in subs. (2) through (5), the commission shall base its review on a written synopsis of the testimony taken at the hearing. The synopsis shall be prepared by the department, ~~by the division of hearings and appeals~~, the commission, or ~~by~~ an outside contractor, from an audio recording of the hearing or from notes taken at the hearing by the administrative law judge. In those cases any party may obtain a copy of the synopsis as provided for in s. LIRC ~~1.045~~ 1.08.

(2) The commission shall base its review on a transcript of the hearing rather than a synopsis if a transcript was prepared and was used by the administrative law judge in deciding the case. In ~~such those~~ cases any party may obtain a copy of the transcript as provided for in s. LIRC ~~1.045~~ 1.08.

(3) Except in unemployment insurance cases and worker classification compliance cases, the commission shall base its review on a transcript of the hearing rather than a synopsis if a party timely requests the commission in writing to conduct its review on the basis of a transcript, the party certifies in such request that it has ordered preparation of a transcript at the party's own expense, and the party thereafter files a copy of the transcript with the commission and serves a copy of the transcript on all other parties. To be timely under this subsection, a request must be made no later than 14 days after the requesting party's receipt from the commission of written confirmation that a petition for commission review has been filed.

(4) The commission shall base its review on a transcript of the hearing rather than a synopsis if a party shows to the commission that the synopsis is not sufficiently complete and accurate to fairly reflect the relevant and material testimony and other evidence taken. In those cases the commission shall direct the preparation of a transcript at its own expense and provide a copy of the transcript to each party without charge.

(5) On its own motion, the commission may base its review on a transcript of the hearing in addition to a synopsis. In those cases the commission shall direct the preparation of a transcript at its own expense and provide a copy of the transcript to each party without charge.

(6) A transcript used pursuant to subs. (2) to (5) shall be prepared by an independent court reporter or transcriptionist and shall include a certification by the court reporter or transcriptionist that the transcript is an original, verbatim transcript of the proceedings.

(7) On its own motion, the commission may base its review on an audio recording of the hearing in addition to a synopsis or transcript.

LIRC 1.08 Obtaining copy of record. A party in a case before the commission may request the commission to provide a copy of the synopsis or transcript of the testimony, exhibits received at the hearing, or other documents in the administrative record. The commission shall furnish the copies upon request but may charge a fee for photocopying of 20 cents per page. Upon proper showing of financial inability to pay for photocopying, the commission may waive the fee.

LIRC 1.09 Hearings. ~~If~~ Except in equal rights cases, if the record in a case is inadequate for the commission to arrive at a decision, the commission shall remand the case to the department of ~~workforce development~~ or division of hearings and appeals, as appropriate, to take additional evidence on behalf of the commission.

Note: The commission does not conduct hearings as part of its review.

LIRC 1.10 Oral argument. The commission may grant a written request for oral argument if it determines that an issue would be more clearly presented by oral argument.

Note: The commission does not consider oral argument to be necessary because review is on the basis of the record, the parties have the right to file briefs, and oral argument delays disposition of the petition.

LIRC 1.11 Briefs. Either party may request the commission to establish a briefing schedule. Requests to file briefs may be made in the petition for review, in an answer, or in writing after the petition and answer. The commission may deny a request to file a brief which is not made in a petition or answer if the commission has already reviewed the case but not yet issued its decision at the time the request is made. Each party may file with the commission briefs or memoranda within the time limits of the briefing schedule established by the commission. Requests for extensions of time for filing briefs shall be made in writing. Extensions may be approved in writing upon good cause shown. A party filing a brief or memorandum with the commission shall furnish a copy to the opposing party.

LIRC 1.12 Rehearings in equal rights cases. The provisions of s. 227.49, Stats., with respect to rehearings shall not apply to decisions of the commission, as the commission does not conduct hearings, and commission review under s. 111.39 (5) (b), Stats., is itself an alternative to the rehearing procedure.

LIRC 1.13 Compromise settlements in worker's compensation cases. ~~Compromise settlements of worker's compensation claims are governed by s. 102.16, Stats., and s. DWD 80.03. Under s. 102.18 (4) (d), Stats., if a compromise is reached while a case is pending commission review, the compromise shall be submitted to the commission, and the commission shall remand the case to the worker's compensation division of the division of hearings and appeals or department, as appropriate, for consideration of the compromise. If the compromise is not approved, the party who filed the petition for commission review may reinstate its petition by notifying the commission. Under s. 102.24 (2), Stats., if a compromise is reached while a case is pending court review of a commission order, remand shall be to the commission and the commission shall then remand the case to the division of hearings and appeals or department, as appropriate, for consideration of the compromise.~~

LIRC 1.14 Actions for judicial review in unemployment insurance cases, worker classification compliance cases, and worker's compensation cases. ~~Judicial review of any a commission decision under s. 108.09 or 108.10, Stats., shall be commenced in the manner and upon the grounds specified in ss. 108.09 (7) and 102.23, Stats., and not under ch. 227 or s. 801.02, Stats. Either party may commence a legal action for review of the commission decision in circuit court within 30 days from the date the decision was mailed to the party's last known address. Such action is commenced only by filing a summons and complaint with the circuit court and serving an authenticated copy of the summons and the complaint upon the commission, all within 30 days. Service must be made upon a commissioner of the labor and industry review commission or an agent authorized by the commission to accept service only at the commission's office in Madison. Such service shall be deemed complete service on all parties but there shall be left with the person so served as many copies of the summons and complaint as there are defendants. Service in an unemployment insurance case, a worker classification compliance case, or a worker's compensation case, service by mail is effective only if the pleadings are actually received by the commission within the appeal period. The complaint shall state the grounds upon which review is sought. The action shall be commenced against the commission, and the party in whose favor the decision was made shall also be made a defendant. The proceedings shall be in the circuit court of the county where the plaintiff resides except that, if the plaintiff is a~~

~~state agency, the proceedings shall be in the circuit court of the county where the defendant resides. If the plaintiff is a non resident of Wisconsin, the proceedings shall be in the circuit court for the county where the claim arose. The proceedings may be brought in any circuit court if all parties stipulate and that court agrees. The appealing~~ The party seeking judicial review shall arrange for preparation of the necessary legal documents.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date November 16, 2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) LIRC 1 through LIRC 4	
4. Subject Labor and Industry Review Commission Procedure	
5. Fund Sources Affected <input checked="" type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.427(1)(a), (k), (km), (m) and (ra)
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule No actual policy problem. The proposed rule pertains only to procedure before the commission. It does not establish regulatory standards and includes no substantive or interpretative provisions. The proposed rule updates addresses, phone numbers, and web addresses that have changed since the rule was last modified. It also reflects changes to where petitions for review may be filed in worker's compensation cases due to an amendment to Wis. Stat. § 102.18(3) in 2015 Wis. Act 55, Section 2831d, and in unemployment insurance and worker classification compliance cases due to an amendment to Wis. Stat. § 108.09(6) in 2015 Wis. Act 334, Section 50. It also modifies a provision dealing with remands in cases of compromises in worker's compensation made necessary by amendments to Wis. Stat. §§ 102.18 (4)(d) by Wis. Act. 55, Sections 2843d, and 2847d.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The commission has posted its proposed rules and scope statement on its website since November 22, 2021, and solicited comments but has received none. It believes the proposed minor changes to its procedural rules will not affect businesses, business sectors, local governmental units, or individuals.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) None	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Will bring agency procedural rules in compliance with state statutes and lessen the possibility for confusion or error by persons filing petition for review with the LIRC.

The alternative is to do nothing.

16. Long Range Implications of Implementing the Rule

Will lessen the possibility for confusion or error by persons filing petition for review with the LIRC.

17. Compare With Approaches Being Used by Federal Government

Not applicable

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The proposed rules are similar to procedural rules governing worker's compensation procedures in neighboring states.

19. Contact Name	20. Contact Phone Number
Anita J. Krasno	608 266-5700

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5584/P1
MED&EAW:cjs&wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 20.445 (1) (gg), 20.445 (1) (gm), 108.02 (1), 108.14 (7) (c) and
2 108.14 (23) (d); **to renumber and amend** 20.445 (1) (gc), 20.445 (1) (gd), 20.445
3 (1) (gh), 108.14 (12) (e), 108.14 (18), 108.19 (1), 108.19 (1m), 108.19 (1n), 108.19
4 (1p), 108.19 (1q), 108.19 (1s), 108.19 (2), 108.19 (2m) and 108.19 (4); **to**
5 **consolidate, renumber and amend** 108.14 (12) (a) to (d), 108.161 (1) and
6 (1m) and 108.161 (5) and (6); **to amend** 20.445 (1) (n), 20.445 (1) (nb), 20.445
7 (1) (nd), 20.445 (1) (ne), 20.445 (1) (u), 20.445 (1) (v), 25.17 (1) (xe), 25.17 (1) (xf),
8 103.05 (5) (d), 108.04 (11) (f), 108.07 (5) (am) (intro.), 108.07 (5) (am) 1., 108.07
9 (5) (am) 3., 108.07 (6), 108.09 (5) (b), 108.14 (2m), 108.14 (3m), 108.14 (16),
10 108.16 (5) (c), 108.16 (6) (k), 108.16 (6) (m), 108.16 (8) (f), 108.161 (title), 108.161
11 (2), 108.161 (3), 108.161 (3e), 108.161 (4), 108.161 (7), 108.161 (8), 108.161 (9),
12 108.162 (7), 108.17 (2m), 108.17 (3), 108.17 (3m), 108.18 (7) (a) 1., 108.18 (7) (h),
13 108.19 (1e) (a), 108.19 (1e) (d), 108.19 (1f) (a), 108.19 (1f) (c), 108.22 (1) (am) and
14 108.22 (1m); **to repeal and recreate** 108.19 (title) and 108.20; and **to create**
15 20.427 (1) (g), 108.19 (1) (d), 108.19 (1e) (cm) and 108.19 (1m) (e) of the statutes;

1 **relating to:** various changes to the unemployment insurance law and making
2 an appropriation.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

Segregated fund

The bill creates a segregated fund to receive various program revenue moneys received by DWD under the UI law that are not otherwise credited to other segregated funds, including various moneys collected by DWD as interest and penalties under the UI law and all other nonfederal moneys received for the administration of the UI law that are not otherwise appropriated. Current law provides for depositing these revenues in appropriations in the general fund.

Other changes

The bill makes various changes to a) reorganize, clarify, and update provisions relating to the financing of the UI law; and b) address numerous out-of-date or erroneous cross-references in the UI law, including all of the following:

1. Repealing and consolidating certain appropriations and making other changes to clarify the funding sources and receiving appropriations for various revenues and expenses under the UI law.
2. Creating a program revenue appropriation for the Labor and Industry Review Commission to collect moneys received for the copying and generation of documents and for other services provided in carrying out its functions.
3. Deleting obsolete references to state laws.
4. Correcting various cross-references that are otherwise incomplete or erroneous.
5. Replacing certain references to provisions in federal acts or to the Internal Revenue Code with references to the U.S. Code in order to facilitate accessibility to federal law.
6. Making other nonsubstantive changes to the UI law to improve organization, modernize language, and provide further clarity, specificity, and consistency in the law.

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:

3 **SECTION 1.** 20.427 (1) (g) of the statutes is created to read:

1 20.427 (1) (g) *Agency collections.* All moneys received from fees or other
2 charges for copying of documents, generation of copies of documents from optical disc
3 or electronic storage, publication of books, and other services provided in carrying
4 out the functions of the commission.

5 **SECTION 2.** 20.445 (1) (gc) of the statutes is renumbered 20.445 (1) (wc) and
6 amended to read:

7 20.445 (1) (wc) *Unemployment administration.* All From the unemployment
8 administration fund, all moneys received by the department under s. 108.19 ~~not~~
9 ~~otherwise appropriated under this subsection (1)~~ for the administration of ch. 108.

10 **SECTION 3.** 20.445 (1) (gd) of the statutes is renumbered 20.445 (1) (wd) and
11 amended to read:

12 20.445 (1) (wd) *Unemployment interest and penalty payments.* All From the
13 unemployment administration fund, all moneys received as interest and penalties
14 collected under ss. 108.04 (11) (c) and (cm) ~~and (13) (e)~~ and 108.22 except interest and
15 penalties deposited under s. 108.19 (1q), ~~and forfeitures under s. 103.05 (5), all~~
16 ~~moneys not appropriated under par. (gg) and 108.20 (3), all moneys received as~~
17 forfeitures under s. 103.05 (5), all moneys received under s. 108.09 (5) (c), all moneys
18 received under s. 108.14 (16), all moneys received under s. 108.18 (1) (c), all moneys
19 transferred to this appropriation account from the appropriation account under par.
20 ~~(gh) (wh), and all other nonfederal moneys received for the employment service or~~
21 for the administration of ch. 108 that are not otherwise appropriated under this
22 subsection, for the payment of benefits specified in s. 108.07 (5) and 1987 Wisconsin
23 Act 38, section 132 (1) (e), for the payment of interest to employers under s. 108.17
24 (3m), for research relating to the condition of the unemployment reserve fund under
25 s. 108.14 (6), for administration of the unemployment insurance program and federal

1 or state unemployment insurance programs authorized by the governor under s.
2 16.54, for satisfaction of any federal audit exception concerning a payment from the
3 unemployment reserve fund or any federal aid disallowance concerning the
4 unemployment insurance program, for assistance to the department of justice in the
5 enforcement of ch. 108, for the payment of interest due on advances from the federal
6 unemployment account under ~~title XII of the social security act~~ 42 USC 1321 to 1324
7 to the unemployment reserve fund, and for payments made to the unemployment
8 reserve fund to obtain a lower interest rate or deferral of interest payments on these
9 advances, ~~except as otherwise provided in s. 108.20.~~

10 **SECTION 4.** 20.445 (1) (gg) of the statutes is repealed.

11 **SECTION 5.** 20.445 (1) (gh) of the statutes is renumbered 20.445 (1) (wh) and
12 amended to read:

13 20.445 (1) (wh) *Unemployment information technology systems; assessments.*
14 ~~All~~ From the unemployment administration fund, all moneys received from
15 assessments levied under s. 108.19 (1e) (a) and ~~1997 Wisconsin Act 39, section 164~~
16 ~~(2)~~, for the purpose specified in s. 108.19 (1e) (d). The treasurer of the unemployment
17 reserve fund may transfer moneys from this appropriation account to the
18 appropriation account under par. ~~(gd)~~ (wd).

19 **SECTION 6.** 20.445 (1) (gm) of the statutes is repealed.

20 **SECTION 7.** 20.445 (1) (n) of the statutes is amended to read:

21 20.445 (1) (n) *Employment assistance and unemployment insurance*
22 *administration; federal moneys.* All federal moneys received, as authorized by the
23 governor under s. 16.54, for the administration of employment assistance and
24 unemployment insurance programs of the department, for the performance of the
25 department's other functions under subch. I of ch. 106 and ch. 108, and to pay the

1 compensation and expenses of appeal tribunals and of employment councils
2 appointed under s. 108.14, to be used for such purposes, except as provided in s.
3 108.161 (3e), and, from the moneys received by this state under ~~section 903~~ 42 USC
4 1103 (d) of the federal Social Security Act, as amended, to transfer to the
5 appropriation account under par. (nb) an amount determined by the treasurer of the
6 unemployment reserve fund not exceeding the lesser of the amount specified in s.
7 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the
8 appropriation account under par. (nd) an amount determined by the treasurer of the
9 unemployment reserve fund not exceeding the lesser of the amount specified in s.
10 108.161 (4) (d) or the amounts in the schedule under par. (nd), to transfer to the
11 appropriation account under par. (ne) an amount not exceeding the lesser of the
12 amount specified in s. 108.161 (4) (d) or the sum of the amounts in the schedule under
13 par. (ne) and the amount determined by the treasurer of the unemployment reserve
14 fund that is required to pay for the cost of banking services incurred by the
15 unemployment reserve fund, and to transfer to the appropriation account under s.
16 20.427 (1) (k) an amount determined by the treasurer of the unemployment reserve
17 fund.

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

19 20.445 (1) (nb) *Unemployment administration; information technology*
20 *systems.* From the moneys received from the federal government under ~~section 903~~
21 42 USC 1103 (d) of the federal Social Security Act, as amended, as a continuing
22 appropriation, the amounts in the schedule, as authorized by the governor under s.
23 16.54, for the purpose specified in s. 108.19 (1e) (d). All moneys transferred from par.
24 (n) for this purpose shall be credited to this appropriation account. No moneys may
25 be expended from this appropriation unless the treasurer of the unemployment

1 reserve fund determines that such expenditure is currently needed for the purpose
2 specified in s. 108.19 (1e) (d).

3 **SECTION 9.** 20.445 (1) (nd) of the statutes is amended to read:

4 20.445 (1) (nd) *Unemployment administration; apprenticeship and other*
5 *employment services.* From the moneys received from the federal government under
6 ~~section 903~~ 42 USC 1103 (d) ~~of the federal Social Security Act, as amended,~~ the
7 amounts in the schedule, as authorized by the governor under s. 16.54, to be used for
8 administration by the department of apprenticeship programs under subch. I of ch.
9 106 and for administration and service delivery of employment and workforce
10 information services, including the delivery of reemployment assistance services to
11 unemployment insurance claimants. All moneys transferred from par. (n) for this
12 purpose shall be credited to this appropriation account. No moneys may be expended
13 from this appropriation unless the treasurer of the unemployment reserve fund
14 determines that such expenditure is currently needed for the purposes specified in
15 this paragraph.

16 **SECTION 10.** 20.445 (1) (ne) of the statutes is amended to read:

17 20.445 (1) (ne) *Unemployment insurance administration and bank service*
18 *costs.* From the moneys received by this state under ~~section 903 of the federal Social~~
19 ~~Security Act, as amended~~ 42 USC 1103, all moneys transferred from the
20 appropriation account under par. (n) to be used for the administration of
21 unemployment insurance and for the payment of the cost of banking services
22 incurred by the unemployment reserve fund. No moneys may be expended from this
23 appropriation unless the treasurer of the unemployment reserve fund determines
24 that such expenditure is currently needed for the purpose specified in this
25 paragraph.

1 **SECTION 11.** 20.445 (1) (u) of the statutes is amended to read:

2 20.445 (1) (u) *Unemployment interest payments and transfers.* From the
3 unemployment interest payment fund, all moneys received from assessments under
4 s. 108.19 (1m) (a) for the purpose of making the payments and transfers authorized
5 under s. 108.19 (1m) (f).

6 **SECTION 12.** 20.445 (1) (v) of the statutes is amended to read:

7 20.445 (1) (v) *Unemployment program integrity.* From the unemployment
8 program integrity fund, all moneys received from sources identified under s. ~~108.19~~
9 ~~(1s) 108.20 (2)~~ (a) for the purpose of making the payments authorized under s. ~~108.19~~
10 ~~(1s) 108.20 (2)~~ (b).

11 **SECTION 13.** 25.17 (1) (xe) of the statutes is amended to read:

12 25.17 (1) (xe) Unemployment interest payment fund (s. ~~108.19 (1q)~~ 108.20 (3));

13 **SECTION 14.** 25.17 (1) (xf) of the statutes is amended to read:

14 25.17 (1) (xf) Unemployment program integrity fund (s. ~~108.19 (1s)~~ 108.20 (2));

15 **SECTION 15.** 103.05 (5) (d) of the statutes is amended to read:

16 103.05 (5) (d) The department shall deposit all moneys received under this
17 subsection in the appropriation account under s. 20.445 (1) (~~gd~~) (wd).

18 **SECTION 16.** 108.02 (1) of the statutes is repealed.

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

20 108.04 (11) (f) All amounts forfeited under par. (c) and all collections from
21 administrative assessments under par. (cm) shall be credited to the administrative
22 account appropriation under s. 20.445 (1) (wd).

23 **SECTION 18.** 108.07 (5) (am) (intro.) of the statutes is amended to read:

24 108.07 (5) (am) (intro.) Except as provided in sub. (7), whenever benefits
25 ~~which~~ that would otherwise be chargeable to the fund's balancing account are paid

1 based on wages paid by an employer that is not subject to the contribution
2 requirements of ss. 108.17 and 108.18, and the benefits are so chargeable under
3 sub. (3) or s. 108.04 (1) (f) ~~or, (5),~~ or (5g) or 108.14 (8n) (e), or under s. 108.16 (6m)
4 (e) for benefits specified in s. 108.16 (3) (b), the department shall charge the
5 benefits as follows:

6 **SECTION 19.** 108.07 (5) (am) 1. of the statutes is amended to read:

7 108.07 (5) (am) 1. If no employer from which the claimant has base period
8 wages is subject to the contribution requirements of ss. 108.17 and 108.18, the
9 benefits shall be ~~charged to the administrative account and~~ paid from the
10 appropriation under s. 20.445 (1) ~~(gd)~~ (wd).

11 **SECTION 20.** 108.07 (5) (am) 3. of the statutes is amended to read:

12 108.07 (5) (am) 3. If 2 or more employers from which the claimant has base
13 period wages are not subject to the contribution requirements of ss. 108.17 and
14 108.18, and one or more employers from which the claimant has base period wages
15 are subject to the contribution requirements of ss. 108.17 and 108.18, that
16 percentage of the employee's benefits which would otherwise be chargeable to the
17 fund's balancing account under sub. (3) or s. 108.04 (1) (f) ~~or, (5),~~ or (5g), or under s.
18 108.16 (6m) (e) for benefits specified in s. 108.16 (3) (b), shall be ~~charged to the~~
19 ~~administrative account and~~ paid from the appropriation under s. 20.445 (1) ~~(gd)~~ (wd).

20 **SECTION 21.** 108.07 (6) of the statutes is amended to read:

21 108.07 (6) The department may initially charge benefits otherwise chargeable
22 ~~to the administrative account~~ payable from the appropriation under s. 20.445 (1)
23 (wd) as provided under this section to the fund's balancing account, and periodically
24 reimburse the charges to the balancing account from the ~~administrative account~~
25 appropriation under s. 20.445 (1) (wd).

1 **SECTION 22.** 108.09 (5) (b) of the statutes is amended to read:

2 108.09 (5) (b) All testimony at any hearing under this section shall be recorded
3 by electronic means, but need not be transcribed unless either of the parties requests
4 a transcript before expiration of that party's right to further appeal under this
5 section and pays a fee to the commission in advance, the amount of which shall be
6 established by rule of the commission. When the commission provides a transcript
7 to one of the parties upon request, the commission shall also provide a copy of the
8 transcript to all other parties free of charge. The transcript fee collected shall be paid
9 ~~to the administrative account~~ credited to the appropriation account under s. 20.427
10 (1) (g).

11 **SECTION 23.** 108.14 (2m) of the statutes is amended to read:

12 108.14 (2m) In the discharge of their duties under this chapter an appeal
13 tribunal, commissioner, or other authorized representative of the department or
14 commission may administer oaths to persons appearing before them, take
15 depositions, certify to official acts, and by subpoenas, served in the manner in which
16 circuit court subpoenas are served, compel attendance of witnesses and the
17 production of books, papers, documents, and records necessary or convenient to be
18 used by them in connection with any investigation, hearing, or other proceeding
19 under this chapter. A party's attorney of record may issue a subpoena to compel the
20 attendance of a witness or the production of evidence. A subpoena issued by an
21 attorney must be in substantially the same form as provided in s. 805.07 (4) and must
22 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of
23 issuance, send a copy of the subpoena to the appeal tribunal or other representative
24 of the department responsible for conducting the proceeding. However, in any
25 investigation, hearing, or other proceeding involving the administration of oaths or

1 the use of subpoenas under this subsection due notice shall be given to any interested
2 party involved, who shall be given an opportunity to appear and be heard at any such
3 proceeding and to examine witnesses and otherwise participate therein. Witness
4 fees and travel expenses involved in proceedings under this chapter may be allowed
5 by the appeal tribunal or representative of the department at rates specified by
6 department rules, and shall be paid from the ~~administrative account~~ appropriation
7 under s. 20.445 (1) (n).

8 **SECTION 24.** 108.14 (3m) of the statutes is amended to read:

9 108.14 (3m) In any court action to enforce this chapter the department, the
10 commission, and the state may be represented by any licensed attorney who is an
11 employee of the department or the commission and is designated by either of them
12 for this purpose or at the request of either of them by the department of justice. If
13 the governor designates special counsel to defend, in behalf of the state, the validity
14 of this chapter or of any provision of ~~Title IX of the social security act~~ 42 USC 1101
15 to 1111, the expenses and compensation of the special counsel and of any experts
16 employed by the department in connection with that proceeding may be charged to
17 the ~~administrative account~~ appropriation under s. 20.445 (1) (wd). If the
18 compensation is being determined on a contingent fee basis, the contract is subject
19 to s. 20.9305.

20 **SECTION 25.** 108.14 (7) (c) of the statutes is repealed.

21 **SECTION 26.** 108.14 (12) (a) to (d) of the statutes are consolidated, renumbered
22 108.14 (12) (am) and amended to read:

23 108.14 (12) (am) Consistently with the provisions of ~~pars. (8) and (9) of section~~
24 303 (a) of Title III of the federal social security act, 42 USC 503 (a) (8) and (9), the
25 department shall expend all moneys received in the federal administrative financing

1 account from any federal agency under said Title III shall be expended 42 USC ch.
2 7 subch. III solely for the purposes and in the amounts found necessary by said that
3 agency for the proper and efficient administration of this chapter. (b) ~~Consistently~~
4 ~~with said provisions of said Title III, any~~ The department shall replace, within a
5 reasonable time, any such moneys, that were received prior to before July 1, 1941,
6 and remaining remained unencumbered on said that date, or that were received on
7 or after said that date, which, because of any action or contingency, have been if the
8 moneys are lost or have been expended for purposes other than, or in amounts in
9 excess of, those found necessary by said the federal agency for the proper
10 administration of this chapter, shall be replaced within a reasonable time. ~~This~~
11 ~~paragraph is the declared policy of this state, as enunciated by the 1941 legislature,~~
12 ~~and shall be implemented as further provided in this subsection.~~ (c) If it is believed
13 ~~that any amount of money thus received has been thus is~~ lost or improperly
14 expended, the department, on its own motion or on notice from said the federal
15 agency, shall promptly investigate and determine the matter and shall, depending
16 on the nature of its determination, take such steps as it may deem considers
17 necessary to protect the interests of the state. (d) If it is finally determined that
18 moneys ~~thus received~~ have been ~~thus~~ lost or improperly expended, then the
19 department shall either make the necessary replacement from ~~those moneys in the~~
20 ~~administrative account specified in s. 108.20 (2m)~~ the appropriation under s. 20.445
21 (1) (wd) or shall submit, at the next budget hearings conducted by the governor and
22 at the budget hearings conducted by the next legislature convened in regular session,
23 a request that the necessary replacement be made by an appropriation from the
24 general fund.

1 **SECTION 27.** 108.14 (12) (e) of the statutes is renumbered 108.14 (12) (bm) and
2 amended to read:

3 108.14 **(12)** (bm) This subsection shall not be construed to relieve this state of
4 any obligation existing ~~prior to its enactment~~ before July 1, 1941, with respect to
5 moneys received ~~prior to~~ before July 1, 1941, ~~pursuant to said Title III under 42 USC~~
6 ch. 7 subch. III.

7 **SECTION 28.** 108.14 (16) of the statutes is amended to read:

8 108.14 **(16)** The department shall have duplicated or printed, ~~and shall~~
9 ~~distribute without charge, such employment security~~ any reports, studies and,
10 forms, records, decisions, regulations, rules, or other materials, including the text of
11 this chapter ~~and, the handbook under sub. (23), and other~~ instructional or
12 explanatory pamphlets for employers or workers, as that it deems necessary for
13 public information or for the proper administration of this chapter; ~~but the.~~ The
14 department may collect a reasonable charge, which shall be credited to the
15 administrative appropriation account under s. 20.445 (1) (wd), for any such item the
16 cost of which is not fully covered by federal administrative grants.

17 **SECTION 29.** 108.14 (18) of the statutes is renumbered 108.19 (1e) (e) and
18 amended to read:

19 108.19 **(1e)** (e) No later than the end of the month following each quarter in
20 which the department expends moneys derived from assessments levied under ~~s.~~
21 ~~108.19 (1e)~~ this subsection, the department shall submit a report to the council on
22 unemployment insurance describing the use of the moneys expended and the status
23 at the end of the quarter of any project for which moneys were expended.

24 **SECTION 30.** 108.14 (23) (d) of the statutes is repealed.

25 **SECTION 31.** 108.16 (5) (c) of the statutes is amended to read:

1 108.16 (5) (c) While the state has an account in the “Unemployment Trust
2 Fund”, public deposit insurance charges on the fund’s balances held in banks,
3 savings banks, savings and loan associations, and credit unions in this state, the
4 premiums on surety bonds required of the fund’s treasurer under this section, and
5 any other expense of administration otherwise payable from the fund’s interest
6 earnings, shall be paid from the ~~administrative account~~ appropriation under s.
7 20.445 (1) (n) or (ne).

8 **SECTION 32.** 108.16 (6) (k) of the statutes is amended to read:

9 108.16 (6) (k) All payments to the fund from the ~~administrative account~~ as
10 authorized under s. ~~108.20 (2m)~~ appropriation under s. 20.445 (1) (wd).

11 **SECTION 33.** 108.16 (6) (m) of the statutes is amended to read:

12 108.16 (6) (m) Any amounts transferred to the balancing account from the
13 unemployment interest payment fund under s. 108.19 (1m) (f).

14 **SECTION 34.** 108.16 (8) (f) of the statutes is amended to read:

15 108.16 (8) (f) The successor shall take over and continue the transferor’s
16 account, including its positive or negative balance and all other aspects of its
17 experience under this chapter in proportion to the payroll assignable to the
18 transferred business and the liability of the successor shall be proportioned to the
19 extent of the transferred business. The transferor and the successor shall be jointly
20 and severally liable for any amounts owed by the transferor ~~to the fund and to the~~
21 ~~administrative account~~ under this chapter at the time of the transfer, but a successor
22 under par. (c) is not liable for the debts of the transferor except in the case of fraud
23 or malfeasance.

24 **SECTION 35.** 108.161 (title) of the statutes is amended to read:

1 **108.161** (title) **Federal administrative financing account; Reed Act**
2 **distributions.**

3 **SECTION 36.** 108.161 (1) and (1m) of the statutes are consolidated, renumbered
4 108.161 (1) and amended to read:

5 108.161 (1) The fund's treasurer shall maintain within the fund an
6 employment security "federal administrative financing account", and shall credit
7 ~~thereto to that account~~ all amounts credited to the fund pursuant to the federal
8 ~~employment security administrative financing act (of 1954) and section 903 of the~~
9 ~~federal social security act, as amended. (1m) The treasurer of the fund shall also~~
10 ~~credit to said account under 42 USC 1101 to 1103 and~~ all federal moneys credited to
11 the fund pursuant to under sub. (8).

12 **SECTION 37.** 108.161 (2) of the statutes is amended to read:

13 108.161 (2) The requirements of ~~said section 903~~ 42 USC 1103 shall control any
14 appropriation, withdrawal, and use of any moneys in said the federal administrative
15 financing account.

16 **SECTION 38.** 108.161 (3) of the statutes is amended to read:

17 108.161 (3) Consistently with this chapter and ~~said section 903, such~~ 42 USC
18 1103, moneys in the federal administrative financing account shall be used solely for
19 benefits or employment security administration by the department, including
20 unemployment insurance, employment service, apprenticeship programs, and
21 related statistical operations.

22 **SECTION 39.** 108.161 (3e) of the statutes is amended to read:

23 108.161 (3e) Notwithstanding sub. (3), any moneys allocated under ~~section 903~~
24 ~~of the federal Social Security Act, as amended,~~ 42 USC 1103 for federal fiscal years
25 2000 and 2001 and the first \$2,389,107 of any distribution received by this state

1 under ~~section 903 of that act~~ 42 USC 1103 in federal fiscal year 2002 shall be used
2 solely for unemployment insurance administration.

3 **SECTION 40.** 108.161 (4) of the statutes is amended to read:

4 108.161 (4) ~~Such moneys~~ Moneys in the federal administrative financing
5 account shall be encumbered and spent for employment security administrative
6 purposes only pursuant to, and after the effective date of, a specific legislative
7 appropriation enactment that does all of the following:

8 (a) ~~Stating States~~ for which such purposes and in what amounts the
9 appropriation is being made ~~to the administrative account created by s. 108.20.~~

10 (b) ~~Directing Directs~~ the fund's treasurer to transfer the appropriated amounts
11 ~~to the administrative account~~ the appropriation account under s. 20.445 (1) (n) only
12 as and to the extent that they are currently needed for such expenditures, and
13 ~~directing directs~~ that there shall be restored to the federal administrative financing
14 ~~account created by sub. (1)~~ any amount thus transferred ~~which~~ that has ceased to be
15 needed or available for such expenditures.

16 (c) ~~Specifying Specifies~~ that the appropriated amounts are available for
17 obligation solely within the 2 years beginning on the appropriation law's date of
18 enactment. This paragraph does not apply to the appropriations under s. 20.445 (1)
19 (nd) and (ne) or to any amounts expended from the appropriation under s. 20.445 (1)
20 (nb) from moneys transferred to this state on March 13, 2002, pursuant to ~~section 903~~
21 ~~(d) of the federal Social Security Act~~ 42 USC 1103 (d).

22 (d) ~~Limiting Limits~~ the total amount ~~which~~ that may be obligated during any
23 fiscal year to the aggregate of all amounts credited under sub. (1), including amounts
24 credited ~~pursuant to~~ under sub. (8), reduced at the time of any obligation by the sum
25 of the moneys obligated and charged against any of the amounts credited.

SECTION 41

1 **SECTION 41.** 108.161 (5) and (6) of the statutes are consolidated, renumbered
2 108.161 (5m) and amended to read:

3 108.161 **(5m)** The total of the amounts ~~thus~~ appropriated under sub. (4) for use
4 in any fiscal year shall in no event exceed the moneys available for such use
5 ~~hereunder~~ under this section, considering the timing of credits ~~hereunder~~ under this
6 section and the sums already spent or appropriated or transferred or otherwise
7 encumbered ~~hereunder~~. ~~(6)~~ under this section. The fund's treasurer shall keep a
8 record of all such ~~times and amounts~~; shall charge transactions and shall do all of the
9 following:

10 (a) Charge each sum against the earliest credits ~~duly~~ available therefor; shall
11 ~~include~~.

12 (b) Include any sum ~~thus~~ that has been appropriated but not yet spent
13 ~~hereunder~~ under this section in computing the fund's net balance as of the close of
14 any month, in line with the federal requirement that any such sum shall, until spent,
15 be considered part of the fund; ~~and shall certify~~.

16 (c) Certify the relevant facts whenever necessary ~~hereunder~~.

17 **SECTION 42.** 108.161 (7) of the statutes is amended to read:

18 108.161 **(7)** If any moneys appropriated ~~hereunder~~ under this section are used
19 to buy and hold suitable land, ~~with a view to the future construction of an~~ and to build
20 a suitable employment security building thereon, and if such land is later sold or
21 transferred to other use, the proceeds of such sale (, or the value of such land when
22 transferred), shall be credited to the federal administrative financing account
23 ~~created by sub. (1)~~ except as otherwise provided in ss. 13.48 (14) and 16.848.

24 **SECTION 43.** 108.161 (8) of the statutes is amended to read:

1 108.161 (8) If any sums are appropriated and spent ~~hereunder~~ under this
2 section to buy land and to build a suitable employment security building thereon, or
3 to purchase information technology hardware and software, ~~then~~ any federal
4 moneys thereafter credited to the fund or paid to the department by way of gradual
5 reimbursement of such employment security capital expenditures, or in lieu of the
6 estimated periodic amounts ~~which~~ that would otherwise (, in the absence of such
7 expenditures), be federally granted for the rental of substantially equivalent
8 quarters, shall be credited to the federal administrative financing account created
9 ~~by sub. (1)~~, consistently with any federal requirements applicable to the handling
10 and crediting of such moneys.

11 **SECTION 44.** 108.161 (9) of the statutes is amended to read:

12 108.161 (9) Any land and building or office quarters acquired under this section
13 shall continue to be used for employment security purposes. Realty or quarters may
14 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)
15 or 16.848 (1) and may not be sold or transferred without the governor's approval. The
16 proceeds from the sale, or the value of realty or quarters upon transfer, shall be
17 credited to the federal administrative financing account ~~established in sub. (1)~~ or
18 credited to the ~~fund established in s. 108.20~~ appropriate appropriation account
19 under s. 20.445, or both as determined by the department in accordance with federal
20 requirements. Equivalent substitute rent-free quarters may be provided, as
21 federally approved. Amounts credited under this subsection shall be used solely to
22 finance employment security quarters according to federal requirements.

23 **SECTION 45.** 108.162 (7) of the statutes is amended to read:

1 108.162 (7) Any amount appropriated under s. 20.445 (1) (na) ~~which~~ that has
2 not been obligated shall be available for employment security local office building
3 projects, consistent with this section and ~~ss. s. 108.161 and 108.20.~~

4 **SECTION 46.** 108.17 (2m) of the statutes is amended to read:

5 108.17 (2m) When a written statement of account is issued to an employer by
6 the department, ~~showing as duly credited~~ that shows a specified amount received
7 from the employer under this chapter as having been credited, no other form of state
8 receipt ~~therefor~~ is required.

9 **SECTION 47.** 108.17 (3) of the statutes is amended to read:

10 108.17 (3) If an employing unit ~~makes application~~ applies to the department
11 to adjust an alleged overpayment by the employer of contributions or interest under
12 this chapter, and files such an application within 3 years after the close of the
13 calendar year in which such payment was made, the department shall ~~make a~~
14 ~~determination~~ determine under s. 108.10 ~~as to the existence and whether and to~~
15 ~~what~~ extent of any such an overpayment, and said section shall apply to such
16 ~~determination~~ exists. Except as provided in sub. (3m), the department shall allow
17 an employer a credit for any amount determined under s. 108.10 to have been
18 erroneously paid by the employer, without interest, against its future contribution
19 payments; or, if the department finds it impracticable to allow the employer such a
20 credit, it shall refund ~~such~~ the overpayment to the employer, without interest, from
21 the fund or the ~~administrative account, as the case may be~~ appropriate appropriation
22 under s. 20.445.

23 **SECTION 48.** 108.17 (3m) of the statutes is amended to read:

24 108.17 (3m) If an appeal tribunal or the commission issues a decision under
25 s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is

1 determined that an amount has been erroneously paid by an employer, the
2 department shall, from the ~~administrative account~~ appropriation under s. 20.445 (1)
3 (wd), credit the employer with interest at the rate of 0.75 percent per month or
4 fraction thereof on the amount of the erroneous payment. Interest shall accrue from
5 the month which the erroneous payment was made until the month in which it is
6 either used as a credit against future contributions or refunded to the employer.

7 **SECTION 49.** 108.18 (7) (a) 1. of the statutes is amended to read:

8 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make
9 payments to the fund during the month of November in excess of those required by
10 this section and s. 108.19 (1), ~~(1e)~~, and ~~(1f)~~. Each payment shall be credited to the
11 employer's account for the purpose of computing the employer's reserve percentage
12 as of the immediately preceding computation date.

13 **SECTION 50.** 108.18 (7) (h) of the statutes is amended to read:

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

20 **SECTION 51.** 108.19 (title) of the statutes is repealed and recreated to read:

21 **108.19 (title) Special assessments.**

22 **SECTION 52.** 108.19 (1) of the statutes is renumbered 108.19 (1) (a) and
23 amended to read:

24 108.19 (1) (a) Each employer subject to this chapter shall regularly ~~contribute~~
25 ~~to the administrative account at the rate of two-tenths of one~~ pay an assessment

1 equal to 0.2 percent per year on its payroll, except that the department may prescribe
2 at the close of any fiscal year such lower rates of ~~contribution~~ under this section
3 subsection, to apply to classes of employers throughout the ensuing fiscal year, as will
4 in the department's judgment adequately finance the administration of this chapter,
5 and as will in the department's judgment fairly represent the relative cost of the
6 services rendered by the department to each such class.

7 **SECTION 53.** 108.19 (1) (d) of the statutes is created to read:

8 108.19 (1) (d) Assessments under this subsection shall be credited to the
9 appropriation account under s. 20.445 (1) (wc).

10 **SECTION 54.** 108.19 (1e) (a) of the statutes is amended to read:

11 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an
12 employer that finances benefits by reimbursement in lieu of contributions under s.
13 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
14 under s. 108.18 and this section, pay an assessment ~~to the administrative account~~
15 for each year ~~prior to~~ before the year 2010 equal to the lesser of 0.01 percent of its
16 payroll for that year or the solvency contribution that would otherwise be payable
17 by the employer under s. 108.18 (9) for that year.

18 **SECTION 55.** 108.19 (1e) (cm) of the statutes is created to read:

19 108.19 (1e) (cm) Assessments under this subsection shall be credited to the
20 appropriation under s. 20.445 (1) (wh).

21 **SECTION 56.** 108.19 (1e) (d) of the statutes is amended to read:

22 108.19 (1e) (d) The department may expend the moneys received from
23 assessments levied under this subsection in the amounts authorized under s. 20.445
24 (1) ~~(gh)~~ (wh) for the renovation and modernization of unemployment insurance
25 information technology systems, specifically including development and

1 implementation of a new system and reengineering of automated processes and
2 manual business functions.

3 **SECTION 57.** 108.19 (1f) (a) of the statutes is amended to read:

4 108.19 (1f) (a) Except as provided in par. (b), each employer, other than an
5 employer that finances benefits by reimbursement in lieu of contributions under s.
6 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
7 under s. 108.18 and this section, pay an assessment for each year equal to the lesser
8 of 0.01 percent of its payroll for that year or the solvency contribution that would
9 otherwise be payable by the employer under s. 108.18 (9) for that year.

10 (d) Assessments under this ~~paragraph~~ subsection shall be deposited in the
11 unemployment program integrity fund.

12 **SECTION 58.** 108.19 (1f) (c) of the statutes is amended to read:

13 108.19 (1f) (c) Notwithstanding par. (a), the department may, if it finds that the
14 full amount of the levy is not required to effect the purposes specified in ~~sub. (1s)~~ s.
15 108.20 (2) (b) for any year, prescribe a reduced levy for that year and in such case shall
16 publish in the notice under par. (b) the rate of the reduced levy.

17 **SECTION 59.** 108.19 (1m) of the statutes is renumbered 108.19 (1m) (a) and
18 amended to read:

19 108.19 (1m) (a) Each employer subject to this chapter as of the date a rate is
20 established under this subsection shall pay an assessment ~~to the unemployment~~
21 ~~interest payment fund~~ at a rate established by the department sufficient to pay
22 interest due on advances from the federal unemployment account under ~~Title XII of~~
23 ~~the federal social security act~~, 42 USC 1321 to 1324. The rate established by the
24 department for employers who finance benefits under s. 108.15 (2), 108.151 (2), or
25 108.152 (1) shall be 75 percent of the rate established for other employers. The

1 amount of any employer's assessment shall be the product of the rate established for
2 that employer multiplied by the employer's payroll of the previous calendar year as
3 taken from quarterly employment and wage reports filed by the employer under s.
4 108.205 (1) or, in the absence of the filing of such reports, estimates made by the
5 department.

6 (d) Each assessment made under this subsection is due within 30 days after the
7 date the department issues the assessment. ~~If the~~

8 (f) The department shall use amounts collected from employers under this
9 subsection ~~exceed the amounts needed to pay interest due on advances from the~~
10 federal unemployment account under 42 USC 1321 to 1324. If the amounts collected
11 exceed the amounts needed to pay that interest for a given year, the department shall
12 use any the excess to pay interest owed in subsequent years on advances from the
13 federal unemployment account. If the department determines that additional
14 interest obligations are unlikely, the department shall transfer the excess to the
15 fund's balancing account ~~of the fund,~~ the unemployment program integrity fund, or
16 both in amounts determined by the department.

17 **SECTION 60.** 108.19 (1m) (e) of the statutes is created to read:

18 108.19 **(1m)** (e) Assessments under this subsection shall be deposited in the
19 unemployment interest payment fund.

20 **SECTION 61.** 108.19 (1n) of the statutes is renumbered 108.19 (1m) (b) and
21 amended to read:

22 108.19 **(1m)** (b) The department shall publish as a class 1 notice under ch. 985
23 any rate established under ~~sub. (1m)~~ par. (a) within 10 days of after the date that the
24 rate is established.

1 **SECTION 62.** 108.19 (1p) of the statutes is renumbered 108.19 (1m) (c) and
2 amended to read:

3 108.19 **(1m)** (c) Notwithstanding ~~sub. (1m) par. (a)~~, an employer having a
4 payroll of \$25,000 or less for the preceding calendar year is exempt from any
5 assessment under ~~sub. (1m)~~ this subsection.

6 **SECTION 63.** 108.19 (1q) of the statutes is renumbered 108.20 (3) and amended
7 to read:

8 108.20 **(3)** UNEMPLOYMENT INTEREST PAYMENT FUND. There is created a separate,
9 nonlapsible trust fund designated as the unemployment interest payment fund
10 consisting of all amounts collected under ~~sub. s. 108.19~~ (1m) (a) and all interest and
11 penalties on those amounts collected under s. 108.22.

12 **SECTION 64.** 108.19 (1s) of the statutes is renumbered 108.20 (2), and 108.20
13 (2) (a) 2. and 3., as renumbered, are amended to read:

14 108.20 **(2)** (a) 2. Assessments levied and deposited into the unemployment
15 program integrity fund under ~~sub. (1f)~~ s. 108.19 (1f).

16 3. Amounts transferred under ~~sub. (1m)~~ s. 108.19 (1m) (f).

17 **SECTION 65.** 108.19 (2) of the statutes is renumbered 108.19 (1) (b) and
18 amended to read:

19 108.19 **(1)** (b) If the department finds, at any time within a fiscal year for which
20 it has prescribed lower contribution rates to the administrative account than the
21 maximum rate permitted under ~~sub. (1) par. (a)~~, that such lower rates will not
22 adequately finance the administration of this chapter or are excessive for that
23 purpose, the department may by general rule prescribe a new schedule of rates in no
24 case exceeding the specified maximum to apply under this ~~section~~ subsection for the
25 balance of the fiscal year.

1 **SECTION 66.** 108.19 (2m) of the statutes is renumbered 108.19 (1) (c) and
2 amended to read:

3 108.19 (1) (c) Within the limit specified by ~~sub. (1)~~ under par. (a), the
4 department may by rule prescribe at any time as to any period any such rate or rates
5 or schedule as it deems necessary and proper ~~hereunder~~ under this subsection.
6 Unless thus prescribed, no such rate or rates or schedule shall apply under ~~sub. (1)~~
7 ~~or (2)~~ par. (a) or (b).

8 **SECTION 67.** 108.19 (4) of the statutes is renumbered 108.18 (1) (c) and
9 amended to read:

10 108.18 (1) (c) ~~If section 303 Notwithstanding par. (b), if 42 USC 503 (a) (5) of~~
11 ~~title III of the social security act and section 26 USC 3304 (a) (4) of the internal~~
12 ~~revenue code are amended to permit a state agency to use, in financing~~
13 ~~administrative expenditures incurred in carrying out its employment security~~
14 ~~functions, some any part of the moneys collected or to be collected under the state~~
15 ~~unemployment insurance law, an employer's contributions in partial or complete~~
16 ~~substitution for grants under title III 42 USC 501 to 506, then this chapter shall, by~~
17 ~~rule of the department, be modified in the manner and to the extent and within the~~
18 ~~limits necessary to permit such use by the department under this chapter; and the~~
19 ~~modifications shall become effective on the same date as such use becomes~~
20 ~~permissible under the federal amendments~~ the department may credit any portion
21 of that part of an employer's contributions to the appropriation under s. 20.445 (1)
22 (wd).

23 **SECTION 68.** 108.20 of the statutes is repealed and recreated to read:

24 **108.20 Segregated funds. (1) UNEMPLOYMENT ADMINISTRATION FUND.** There
25 is created a separate, nonlapsible trust fund designated as the unemployment

1 administration fund consisting of moneys credited to the appropriation accounts
2 under s. 20.445 (1) (wc), (wd), and (wh).

3 **(2) UNEMPLOYMENT PROGRAM INTEGRITY FUND.**

4 **SECTION 69.** 108.22 (1) (am) of the statutes is amended to read:

5 108.22 **(1)** (am) The interest, penalties, and tardy filing fees levied under pars.
6 (a), (ac), (ad), and (af) shall be paid to the department and credited to the
7 administrative account appropriation under s. 20.445 (1) (wd).

8 **SECTION 70.** 108.22 (1m) of the statutes is amended to read:

9 108.22 **(1m)** If any person owes any contributions, reimbursements or
10 assessments under s. 108.15, 108.151, 108.152, 108.155, or 108.19 ~~(1m)~~, benefit
11 overpayments, interest, fees, payments for forfeitures, other penalties, or any other
12 amount to the department under this chapter and fails to pay the amount owed, the
13 department has a perfected lien upon the right, title, and interest in all of the
14 person's real and personal property located in this state in the amount finally
15 determined to be owed, plus costs. Except where creation of a lien is barred or stayed
16 by bankruptcy or other insolvency law, the lien is effective upon the earlier of the date
17 on which the amount is first due or the date on which the department issues a
18 determination of the amount owed under this chapter and shall continue until the
19 amount owed, plus costs and interest to the date of payment, is paid, except as
20 provided in sub. (8) (d). If a lien is initially barred or stayed by bankruptcy or other
21 insolvency law, it shall become effective immediately upon expiration or removal of
22 such bar or stay. The perfected lien does not give the department priority over
23 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges
24 whose interests have been recorded before the department's lien is recorded.

25 **SECTION 71. Fiscal changes.**



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5585/P1
MED&EAW:cjs&wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 16.48 (1) (b), 16.48 (2), 108.02 (26) (c) 9., 108.02 (26) (c) 14.,
2 108.062 (1) (c), 108.062 (2) (b), 108.062 (2) (e), 108.062 (4) (a) 2., 108.062 (19) (a),
3 108.062 (19) (b), 108.062 (20) and 108.19 (3); **to renumber** 108.04 (7) (h); **to**
4 **renumber and amend** 16.48 (1) (a) (intro.), 16.48 (1) (a) 1., 2., 3., 4., 5. and 6.,
5 108.062 (4) (a) 1. and 108.062 (19) (intro.); **to amend** 16.48 (3), 59.40 (4), 71.93
6 (8) (b) 1., 108.02 (2) (c), 108.02 (13) (c) 2. a., 108.02 (13) (k), 108.02 (14), 108.02
7 (15) (j) 5., 108.02 (15) (k) 5., 108.02 (17m), 108.02 (19), 108.04 (12) (b), 108.04
8 (16) (d) 1., 108.04 (18) (a), 108.04 (18) (b), 108.062 (2) (a), 108.062 (2) (c), 108.062
9 (2) (d), 108.062 (2) (h), 108.062 (2) (m), 108.062 (3), 108.062 (3r), 108.062 (4) (b),
10 108.062 (6) (b), 108.062 (15), 108.065 (1e) (intro.), 108.10 (intro.), 108.13 (4) (a)
11 2., 108.14 (8n) (a), 108.14 (8n) (e), 108.14 (26), 108.141 (1) (h), 108.141 (3g) (a)
12 3. b., 108.141 (7) (a), 108.141 (7) (b), 108.145, 108.15 (3) (d), 108.151 (2) (d),
13 108.151 (7) (c), 108.151 (7) (f), 108.152 (1) (d), 108.155 (2) (a) and (d), 108.16 (6m)
14 (a), 108.16 (6w), 108.16 (6x), 108.16 (9) (a), 108.18 (3) (c), 108.22 (8e), 108.22
15 (10), 108.223 (2) (b), 108.23, 108.24 (3) (a) 3. a. and 108.24 (3) (a) 4.; and **to**

1 **create** 16.48 (4), 71.93 (8) (b) 1. d., 108.02 (10e) (c), 108.02 (15) (k) 21., 108.065
2 (3m), 108.101 (5), 108.151 (7) (i) and 108.16 (6m) (j) of the statutes; **relating**
3 **to:** various changes to the unemployment insurance law.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

Unemployment insurance financial outlook statement; council report; special committee

Under current law, DWD must submit a statement regarding the unemployment insurance financial outlook to the governor and legislative leadership by April 15 of every odd-numbered year. The report must contain all of the following: 1) financial projections of unemployment insurance operations, including benefit payments, tax collections, borrowing or debt repayments, and any amounts of interest charges and the economic and public policy assumptions upon which the projections are based, and the impact upon the projections of variations from those assumptions; 2) proposed changes to the laws relating to unemployment insurance financing, benefits, and administration and financial projections under the proposed changes; 3) if there are significant cash reserves in the unemployment fund, the justifications for maintaining them; and 4) if program debt is projected at the end of the forecast period, the reasons DWD is not proposing to liquidate the debt.

The bill changes the submittal deadline of the statement to May 31 of every even-numbered year. The bill also requires the statement to contain proposed methods for liquidating any debt, instead of the reasons DWD is not proposing to liquidate any debt.

Under current law, DWD must submit a report of the activities of the Council on Unemployment Insurance to the governor and legislative leadership by May 15 of each odd-numbered year. Current law also requires DWD to submit to each member of the legislature by June 15 of each odd-numbered year an updated statement of unemployment insurance financial outlook.

The bill replaces the two aforementioned requirements with a single requirement for DWD to submit, by January 31 of each even-numbered year, a report of the activities of the Council on Unemployment Insurance and the most recent statement regarding the unemployment insurance financial outlook to the governor and legislative leadership, rather than to every member of the legislature. The bill also requires DWD to post the most recent version of the report and statement on its Internet site.

Finally, under current law, after the report and statement are submitted to the governor and leadership by May 15 of each odd-numbered year, the governor may convene a special committee to review the financial outlook statement and the activities report. The bill repeals that provision. However, the bill does not affect

the governor's authority under current law to convene advisory committees by executive order.

Effect of criminal convictions

Current law provides that no finding of fact or law, determination, decision, or judgment in any action or administrative or judicial proceeding in law or equity not arising under the UI law made with respect to the rights or liabilities of a party to an action or proceeding under the UI law is binding in an action or proceeding under the UI law.

The bill provides that notwithstanding this provision, a final order or judgment of conviction for a crime entered by a court is binding on the convicted person in an action or proceeding under the UI law that relates to the criminal conviction, and that a person convicted of a crime is precluded from denying the essential allegations of the criminal offense that is the basis for the conviction in an action or proceeding under the UI law.

Reimbursable employer debt assessment

Under current law, DWD must annually determine the total amount due and uncollectible from nonprofit employers that have elected what is known as reimbursement financing (reimbursable employers), and DWD must then charge that amount to an uncollectible reimbursable benefits account in the unemployment reserve fund. Whenever, as of a given year, that account has a negative balance of \$5,000 or more, DWD must assess all such nonprofit reimbursable employers to reimburse for the uncollectible amount, except that employers that would otherwise be assessed less than \$10 are not assessed, and their portion is instead applied to the amount owed by other employers on a pro rata basis.

Also under current law, pursuant to 2015 Wisconsin Act 334, \$2,000,000 was set aside in the unemployment reserve fund to repay reimbursable employers for erroneous payments charged to them that resulted from a false statement or representation (e.g., identity theft).

The bill does the following:

1. Raises the threshold for charging a reimbursable nonprofit employer the assessment to \$20 instead of \$10.
2. Allows DWD, in lieu of or in addition to assessing nonprofit reimbursable employers as described above, to apply moneys from the \$2,000,000 set aside to the uncollectible reimbursable benefits account described above, subject to certain limitations.

Waiver of overpayments

Current law requires the recovery of benefits that were erroneously paid to an individual to be waived if certain conditions apply, including that the erroneous payment was the result of a departmental error. Current law specifies what does and does not constitute a "departmental error" and also provides that if a determination or decision is amended, modified, or reversed by an appeal tribunal (administrative law judge), the Labor and Industry Review Commission, or any court, that action is not to be treated as establishing a departmental error.

The bill specifically provides that, for the purposes of the waiver of recovery of benefits, a “departmental error” does not include an error made by an administrative law judge.

Excluded employment

The bill excludes from coverage under the UI law seasonal work performed by a full-time student at an organized camp, other than an organized camp operated by a governmental or nonprofit entity, that operates for not more than seven months per calendar year, consistent with federal law. Under the bill, “full-time student” includes a person who is currently enrolled in school full time or who was enrolled in school full time during the previous academic year if there is a reasonable assurance that the person will be so enrolled for the immediately succeeding academic year. An individual who performs such services is not eligible to claim UI benefits based on the performance of the services, and a person who employs an individual to perform such services is not subject to a state UI contribution requirement (a requirement to pay taxes) based on the performance of the services.

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 UI 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 reduced by the same percentage as the percentage reduction in the claimant’s normal working hours that the claimant incurs under the program. Former law provided also for the temporary modification of certain requirements that apply to work-share programs with respect to work-share programs submitted on or after April 17, 2020, and before July 4, 2021.

The bill makes a number of the former-law modifications permanent. Among other things, it eliminates a requirement that work-share programs be limited to particular work units, reduces the minimum number of employees who must be covered under a work-share program from 20 to two, and eliminates a requirement that working hours be reduced equitably among employees. In addition, the bill allows a work-share program to remain in effect for 12 months in any five-year period instead of six months in any five-year period.

Collection of debt by Department of Revenue

Subject to certain exceptions, current law requires a state agency and the Department of Revenue to enter into a written agreement to have DOR collect certain amounts owed to the state agency. The bill provides that this requirement does not apply to amounts owed to DWD under the UI law or other federal unemployment programs administered by DWD.

Fiscal agent election of employer status

Generally, under current law, an individual who receives long-term support services in his or her home through certain government-funded care programs is

considered to be an employer under the UI law of a person who provides those services to the individual. Such individuals may use fiscal agents, whose responsibilities include remitting any federal UI taxes or state UI contributions owed by the individual as a result of that employment.

The bill allows a private agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent to such an individual receiving long-term support services to elect to instead be the employer of one or more employees providing those services, subject to certain requirements.

Other changes

The bill makes various changes to a) reorganize, clarify, and update provisions relating in the UI law; and b) address numerous out-of-date or erroneous cross-references in the UI law, including all of the following:

1. Changing certain out-of-date cross-references to federal law to reflect current federal law and the current numbering under the U.S. Code.
2. Repealing certain provisions that reference federal laws that have been repealed.
3. Correcting various cross-references that are otherwise incomplete or erroneous.
4. Replacing certain references to provisions in federal acts or to the Internal Revenue Code with references to the U.S. Code in order to facilitate accessibility to federal law.
5. Making other nonsubstantive changes to the UI law to improve organization, modernize language, and provide further clarity, specificity, and consistency in the law.

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.** 16.48 (1) (a) (intro.) of the statutes is renumbered 16.48 (1) (intro.)
 2 and amended to read:
 3 16.48 (1) (intro.) No later than ~~April 15~~ May 31 of each ~~odd-numbered~~
 4 even-numbered year, the secretary of workforce development shall prepare and
 5 furnish to the governor, the speaker of the assembly, the minority leader of the
 6 assembly, ~~and the majority and minority leaders of the senate, and the council on~~
 7 unemployment insurance, a statement of unemployment insurance financial

SECTION 1

1 outlook, which shall contain all of the following, together with the secretary's
2 recommendations and an explanation for such recommendations:

3 **SECTION 2.** 16.48 (1) (a) 1., 2., 3., 4., 5. and 6. of the statutes are renumbered
4 16.48 (1) (am), (bm), (c), (d), (e) and (f), and 16.48 (1) (bm), (c) and (f), as renumbered,
5 are amended to read:

6 16.48 (1) (bm) Specific proposed changes, if any, in the laws relating to
7 unemployment insurance financing, benefits, and administration.

8 (c) Projections specified in ~~subd. 1. par. (am)~~ under the proposed laws.

9 (f) If unemployment insurance program debt is projected at the end of the
10 forecast period, the ~~reasons why it is not~~ methods proposed to liquidate the debt.

11 **SECTION 3.** 16.48 (1) (b) of the statutes is repealed.

12 **SECTION 4.** 16.48 (2) of the statutes is repealed.

13 **SECTION 5.** 16.48 (3) of the statutes is amended to read:

14 16.48 (3) No Biennially, no later than ~~June 15~~ January 31 of each
15 ~~odd-numbered~~ even-numbered year, the secretary of workforce development, under
16 ~~the direction of~~ shall submit to the governor, shall submit to each member of the
17 ~~legislature an updated~~ speaker of the assembly, the minority leader of the assembly,
18 the majority and minority leaders of the senate, and the council on unemployment
19 insurance the statement of unemployment insurance financial outlook ~~which shall~~
20 ~~contain the information specified in~~ prepared under sub. (1) (a), together with the
21 ~~governor's recommendations and an explanation for such recommendations, and a~~
22 ~~copy of the~~ a report required that summarizes the deliberations of the council and
23 the position of the council regarding any proposed change to the unemployment
24 insurance laws submitted under sub. (1) (b).

25 **SECTION 6.** 16.48 (4) of the statutes is created to read:

1 16.48 (4) The department shall post the most recent version of the statement
2 prepared under sub. (1) and the most recent version of the report prepared under sub.
3 (3) on the department's Internet site.

4 **SECTION 7.** 59.40 (4) of the statutes is amended to read:

5 59.40 (4) CLERK OF CIRCUIT COURT; DEBT COLLECTOR CONTRACT. If authorized by
6 the board under s. 59.52 (28), the clerk of circuit court may contract with a debt
7 collector, as defined in s. 427.103 (3), or enter into an agreement with the department
8 of revenue under s. 71.93 (8) for the collection of debt. Any contract entered into with
9 a debt collector shall provide that the debt collector shall be paid from the proceeds
10 recovered by the debt collector. Any contract entered into with the department shall
11 provide that the department shall charge a collection fee, as provided under s. 71.93
12 (8) (b) ~~1~~ 1m. The net proceeds received by the clerk of circuit court after the payment
13 to the debt collector shall be considered the amount of debt collected for purposes of
14 distribution to the state and county under sub. (2) (m).

15 **SECTION 8.** 71.93 (8) (b) 1. of the statutes is amended to read:

16 71.93 (8) (b) 1. Except as provided in subd. 2., a state agency and the
17 department of revenue shall enter into a written agreement to have the department
18 collect any amount owed to the state agency that is more than 90 days past due,
19 unless ~~negotiations~~ any of the following applies:

20 a. Negotiations between the agency and debtor are actively ongoing, ~~the~~

21 b. The debt is the subject of legal action or administrative proceedings, ~~or the~~

22 c. The agency determines that the debtor is adhering to an acceptable payment
23 arrangement.

24 1m. At least 30 days before the department pursues the collection of any debt
25 referred by a state agency, either the department or the agency shall provide the

1 debtor with a written notice that the debt will be referred to the department for
2 collection. The department may collect amounts owed, pursuant to the written
3 agreement, from the debtor in addition to offsetting the amounts as provided under
4 sub. (3). The department shall charge each debtor whose debt is subject to collection
5 under this paragraph a collection fee and that amount shall be credited to the
6 appropriation under s. 20.566 (1) (h).

7 **SECTION 9.** 71.93 (8) (b) 1. d. of the statutes is created to read:

8 71.93 **(8)** (b) 1. d. The debt is an amount owed under ch. 108 or under a federal
9 unemployment benefit program administered by the department of workforce
10 development.

11 **SECTION 10.** 108.02 (2) (c) of the statutes is amended to read:

12 108.02 **(2)** (c) In connection with the production or harvesting of any commodity
13 defined as an agricultural commodity in s. 15 (g) of the federal agricultural marketing
14 act, as amended (46 Stat. 1550, s. 3; under 12 USC 1141j) or (f), in connection with the
15 ginning of cotton, or in connection with the operation or maintenance of ditches, canals,
16 reservoirs, or waterways, not owned or operated for profit, used exclusively for
17 supplying and storing water for farming purposes.

18 **SECTION 11.** 108.02 (10e) (c) of the statutes is created to read:

19 108.02 **(10e)** (c) "Departmental error" does not include an error made by an
20 appeal tribunal appointed under s. 108.09 (3).

21 **SECTION 12.** 108.02 (13) (c) 2. a. of the statutes is amended to read:

22 108.02 **(13)** (c) 2. a. Such crew leader holds a valid certificate of registration
23 under ~~the federal farm labor contractor registration act of 1963~~ 29 USC 1801 to 1872;
24 or substantially all the members of such crew operate or maintain tractors,

1 mechanized harvesting or cropdusting equipment, or any other mechanized
2 equipment which is provided by such crew leader; and

3 **SECTION 13.** 108.02 (13) (k) of the statutes is amended to read:

4 108.02 (13) (k) “Employer” Except as provided in s. 108.065 (3m), “employer”
5 does not include a county department, an aging unit, or, under s. 46.2785, a private
6 agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve
7 as a fiscal agent under s. ~~46.27 (5) (i), 46.272 (7) (e), or 47.035~~ as to any individual
8 performing services for a person receiving long-term support services under s.
9 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or
10 personal assistance services under s. 47.02 (6) (c).

11 **SECTION 14.** 108.02 (14) of the statutes is amended to read:

12 108.02 (14) EMPLOYER'S ACCOUNT. “Employer’s account” means ~~a~~ an employer’s
13 separate account in the fund, ~~reflecting the employer’s experience with respect to~~
14 ~~contribution credits and benefit charges under this chapter~~ maintained as required
15 under s. 108.16 (2) (a).

16 **SECTION 15.** 108.02 (15) (j) 5. of the statutes is amended to read:

17 108.02 (15) (j) 5. In any quarter in the employ of any organization exempt from
18 federal income tax under section 26 USC 501 (a) ~~of the internal revenue code~~, other
19 than an organization described in section 26 USC 401 (a) or 501 (c) (3) ~~of such code~~,
20 or under section 26 USC 521 ~~of the internal revenue code~~, if the remuneration for
21 such service is less than \$50;

22 **SECTION 16.** 108.02 (15) (k) 5. of the statutes is amended to read:

23 108.02 (15) (k) 5. With respect to which unemployment insurance is payable
24 under the federal railroad unemployment insurance act (~~52 Stat. 1094~~) 45 USC 351
25 to 369;

1 **SECTION 17.** 108.02 (15) (k) 21. of the statutes is created to read:

2 108.02 (15) (k) 21. Performed by a full-time student, as defined in 26 USC 3306
3 (q), for less than 13 calendar weeks in a calendar year in the employ of an organized
4 camp, if one of the following applies:

5 a. The camp does not operate for more than 7 months in the calendar year and
6 did not operate for more than 7 months in the preceding calendar year.

7 b. The camp had average gross receipts for any 6 months in the preceding
8 calendar year that were not more than 33 1/3 percent of its average gross receipts for
9 the other 6 months in the preceding calendar year.

10 **SECTION 18.** 108.02 (17m) of the statutes is amended to read:

11 108.02 (17m) INDIAN TRIBE. “Indian tribe” has the meaning given in 25 USC
12 450b 5304 (e), and includes any subdivision, subsidiary, or business enterprise that
13 is wholly owned by such an entity.

14 **SECTION 19.** 108.02 (19) of the statutes is amended to read:

15 108.02 (19) NONPROFIT ORGANIZATIONS. “Nonprofit organization” means an
16 organization described in section 26 USC 501 (c) (3) of the Internal Revenue Code
17 that is exempt from federal income tax under section 26 USC 501 (a) of the Internal
18 Revenue Code.

19 **SECTION 20.** 108.02 (26) (c) 9. of the statutes is repealed.

20 **SECTION 21.** 108.02 (26) (c) 14. of the statutes is repealed.

21 **SECTION 22.** 108.04 (7) (h) of the statutes is renumbered 108.04 (7) (u).

22 **SECTION 23.** 108.04 (12) (b) of the statutes is amended to read:

23 108.04 (12) (b) Any individual who receives, through the department, any other
24 type of unemployment benefit or allowance for a given week is ineligible for benefits

1 for that same week under this chapter, except as specifically required for conformity
2 with the federal trade act of 1974 (P.L. 93-618) 19 USC 2101 to 2497b.

3 **SECTION 24.** 108.04 (16) (d) 1. of the statutes is amended to read:

4 108.04 (16) (d) 1. The department shall not deny benefits under sub. (7) as a
5 result of the individual's leaving unsuitable work to enter or continue such training,
6 as a result of the individual's leaving work that the individual engaged in on a
7 temporary basis during a break in the training or a delay in the commencement of
8 the training, or because the individual left on-the-job training not later than 30 days
9 after commencing that training because the individual did not meet the
10 requirements of the federal trade act under 19 USC 2296 (c) (1) (B); and

11 **SECTION 25.** 108.04 (18) (a) of the statutes is amended to read:

12 108.04 (18) (a) The wages paid to an employee who performed services while
13 the employee was an alien shall, if based on such services, be excluded from the
14 employee's base period wages for purposes of sub. (4) (a) and ss. 108.05 (1) and 108.06
15 (1) unless the employee is an alien who was lawfully admitted for permanent
16 residence at the time such services were performed, was lawfully present for the
17 purpose of performing such services, or was permanently residing in the United
18 States under color of law at the time such services were performed, including an alien
19 who was lawfully present in the United States as a result of the application of the
20 provisions of ~~section 212 (d) (5) of the federal immigration and nationality act (8 USC~~
21 1182 (d) (5)). All claimants shall be uniformly required to provide information as to
22 whether they are citizens and, if they are not, any determination denying benefits
23 under this subsection shall not be made except upon a preponderance of the evidence.

24 **SECTION 26.** 108.04 (18) (b) of the statutes is amended to read:

1 108.04 (18) (b) Any amendment of ~~s. 26 USC~~ 3304 (a) (14) of the federal
2 unemployment tax act specifying conditions other than as stated in par. (a) for denial
3 of benefits based on services performed by aliens, or changing the effective date for
4 required implementation of par. (a) or such other conditions, ~~which~~ that is a condition
5 of approval of this chapter for full tax credit against the tax imposed by the federal
6 unemployment tax act, shall be applicable to this subsection.

7 **SECTION 27.** 108.062 (1) (c) of the statutes is repealed.

8 **SECTION 28.** 108.062 (2) (a) of the statutes is amended to read:

9 108.062 (2) (a) Specify the ~~work unit in which the plan will be implemented,~~
10 ~~the affected positions,~~ and the names of the employees filling those positions on the
11 date of submittal.

12 **SECTION 29.** 108.062 (2) (b) of the statutes is repealed.

13 **SECTION 30.** 108.062 (2) (c) of the statutes is amended to read:

14 108.062 (2) (c) Provide for initial coverage under the plan of at least ~~20~~ 2
15 positions that are filled on the effective date of the work-share program.

16 **SECTION 31.** 108.062 (2) (d) of the statutes is amended to read:

17 108.062 (2) (d) Specify the period or periods when the plan will be in effect,
18 which may not exceed a total of ~~6~~ 12 months in any 5-year period ~~within the same~~
19 ~~work unit.~~

20 **SECTION 32.** 108.062 (2) (e) of the statutes is repealed.

21 **SECTION 33.** 108.062 (2) (h) of the statutes is amended to read:

22 108.062 (2) (h) Specify the normal average hours per week worked by each
23 employee ~~in the work unit~~ and the percentage reduction in the average hours of work
24 per week worked by that employee, exclusive of overtime hours, which shall be

1 applied in a uniform manner and which shall be at least 10 percent but not more than
2 50 60 percent of the normal hours per week of that employee.

3 **SECTION 34.** 108.062 (2) (m) of the statutes is amended to read:

4 108.062 (2) (m) Indicate whether the plan includes employer-sponsored
5 training to enhance job skills and acknowledge that the employees in the ~~work unit~~
6 work-share program may participate in training funded under the federal
7 Workforce Innovation and Opportunity Act, 29 USC 3101 to 3361, or another federal
8 law that enhances job skills without affecting availability for work, subject to
9 department approval.

10 **SECTION 35.** 108.062 (3) of the statutes is amended to read:

11 108.062 (3) APPROVAL OF PLANS. The department shall approve a plan if the plan
12 includes all of the elements specified in sub. (2) ~~or (20), whichever is applicable.~~ The
13 approval is effective for the effective period of the plan unless modified under sub.
14 (3m).

15 **SECTION 36.** 108.062 (3r) of the statutes is amended to read:

16 108.062 (3r) APPLICABILITY OF LAWS. A work-share program shall be governed
17 by the law that was in effect when the plan or modification was last approved under
18 sub. (3) or (3m), until the program ends as provided in sub. (4), but an employer with
19 ~~a work-share program governed by sub. (2) may, while sub. (20) is in effect,~~ apply for
20 a modification under sub. (3m), and that modification application shall be governed
21 by ~~sub. (20)~~ the law in effect when the modification is approved.

22 **SECTION 37.** 108.062 (4) (a) 1. of the statutes is renumbered 108.062 (4) (a) and
23 amended to read:

24 108.062 (4) (a) ~~Except as provided in subd. 2., a~~ A work-share program
25 becomes effective on the later of the Sunday of the ~~2nd week beginning~~ or after

1 approval of a work-share plan under sub. (3) or any Sunday after that day specified
2 in the plan.

3 **SECTION 38.** 108.062 (4) (a) 2. of the statutes is repealed.

4 **SECTION 39.** 108.062 (4) (b) of the statutes is amended to read:

5 108.062 (4) (b) A work-share program ends on the earlier of the last Sunday
6 that precedes the end of the ~~6-month~~ 12-month period beginning on the effective
7 date of the program or any Sunday before that day specified in the plan unless the
8 program terminates on an earlier date under sub. (5), (14), or (15).

9 **SECTION 40.** 108.062 (6) (b) of the statutes is amended to read:

10 108.062 (6) (b) No employee who is included in a work-unit under a work-share
11 program is eligible to receive any benefits for a week in which the plan is in effect in
12 which the employee is engaged in work for the employer that sponsors the plan ~~which~~
13 that, when combined with work performed by the employee for any other employer
14 for the same week, ~~exceed~~ exceeds 90 percent of the employee's average hours of work
15 per week for the employer that creates the plan, as identified in the plan.

16 **SECTION 41.** 108.062 (15) of the statutes is amended to read:

17 108.062 (15) INVOLUNTARY TERMINATION. If in any week there are fewer than 20
18 2 employees who are included in a work-share program of any employer, the program
19 terminates on the 2nd Sunday following the end of that week. ~~This subsection does~~
20 ~~not apply to a work-share program to which sub. (20) applies.~~

21 **SECTION 42.** 108.062 (19) (intro.) of the statutes is renumbered 108.062 (19) and
22 amended to read:

23 108.062 (19) SECRETARY MAY WAIVE COMPLIANCE. The secretary may ~~do any of the~~
24 following waive compliance with any requirement under this section if the secretary
25 determines that doing so is necessary to permit continued certification of this

1 chapter for grants to this state under Title III of the federal Social Security Act, for
2 maximum credit allowances to employers under the federal Unemployment Tax Act,
3 or for this state to qualify for full federal financial participation in the cost of
4 administration of this section and financing of benefits to employees participating
5 in work-share programs under this section.

6 **SECTION 43.** 108.062 (19) (a) of the statutes is repealed.

7 **SECTION 44.** 108.062 (19) (b) of the statutes is repealed.

8 **SECTION 45.** 108.062 (20) of the statutes, as affected by 2021 Wisconsin Act 4,
9 is repealed.

10 **SECTION 46.** 108.065 (1e) (intro.) of the statutes is amended to read:

11 108.065 (1e) (intro.) Except as provided in subs. (2) and ~~(3)~~ to (3m), if there is
12 more than one employing unit that has a relationship to an employee, the
13 department shall determine which of the employing units is the employer of the
14 employee by doing the following:

15 **SECTION 47.** 108.065 (3m) of the statutes is created to read:

16 108.065 (3m) A private agency that serves as a fiscal agent or contracts with
17 a fiscal intermediary to serve as a fiscal agent to recipients of services under ch. 46,
18 47, or 51 may elect to be the employer of one or more employees providing those
19 services. As a condition of eligibility for election to be the employer of one or more
20 employees providing those services, the private agency shall notify in writing the
21 recipient of any such services of its election, for purposes of the unemployment
22 insurance law, to be the employer of any worker providing such services to the
23 recipient, and must be treated as the employer under 26 USC 3301 to 3311 for
24 purposes of federal unemployment taxes on the worker's services.

25 **SECTION 48.** 108.10 (intro.) of the statutes is amended to read:

1 **108.10 Settlement of issues other than benefit claims.** (intro.) Except as
2 provided in s. 108.245 (3), in connection with any issue arising under this chapter as
3 to the status or liability of an employing unit ~~in this state~~, for which no review is
4 provided under s. 108.09, 108.095, or 108.227 (5) and whether or not a penalty is
5 provided in s. 108.24, the following procedure shall apply:

6 **SECTION 49.** 108.101 (5) of the statutes is created to read:

7 108.101 (5) Notwithstanding sub. (4), a final order or judgment of conviction
8 for a crime entered by a court is binding on the convicted person in an action or
9 proceeding under this chapter that relates to the criminal conviction. A person
10 convicted of a crime is precluded from denying the essential allegations of the
11 criminal offense that is the basis for the conviction in an action or proceeding under
12 this chapter.

13 **SECTION 50.** 108.13 (4) (a) 2. of the statutes is amended to read:

14 108.13 (4) (a) 2. “Legal process” has the meaning given under 42 USC ~~662 (e)~~
15 659 (i) (5).

16 **SECTION 51.** 108.14 (8n) (a) of the statutes is amended to read:

17 108.14 (8n) (a) The department shall enter into a reciprocal arrangement
18 ~~which is approved by the U.S. secretary of labor pursuant to section under 26 USC~~
19 ~~3304 (a) (9) (B) of the internal revenue code~~, to provide more equitable benefit
20 coverage for individuals whose recent work has been covered by the unemployment
21 insurance laws of 2 or more jurisdictions.

22 **SECTION 52.** 108.14 (8n) (e) of the statutes is amended to read:

23 108.14 (8n) (e) The department shall charge this state’s share of any benefits
24 paid under this subsection to the account of each employer by which the employee
25 claiming benefits was employed in the applicable base period, in proportion to the

1 total amount of wages he or she earned from each employer in the base period, except
2 that if s. 108.04 (1) (f), (5), ~~(5g)~~, (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a)
3 ~~or (b) to (c)~~, 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) would have applied to
4 employment by such an employer who is subject to the contribution requirements of
5 ss. 108.17 and 108.18, the department shall charge the share of benefits based on
6 employment with that employer to the fund's balancing account, or, if s. 108.04 (1)
7 (f) ~~or (5)~~, or (5g) or 108.07 (3) would have applied to an employer that is not subject
8 to the contribution requirements of ss. 108.17 and 108.18, the department shall
9 charge the share of benefits based on that employment in accordance with s. 108.07
10 (5) (am) 1. and 2. The department shall also charge the fund's balancing account with
11 any other state's share of such benefits pending reimbursement by that state.

12 **SECTION 53.** 108.14 (26) of the statutes is amended to read:

13 108.14 (26) The department shall prescribe by rule a standard affidavit form
14 that may be used by parties to appeals under ss. 108.09, 108.095, and 108.10 and
15 shall make the form available to employers and claimants. The form shall be
16 sufficient to qualify as admissible evidence in a hearing under this chapter if the
17 authentication is sufficient and the information set forth by the affiant is admissible,
18 but its use by a party does not eliminate the right of an opposing party to cross
19 examine the affiant concerning the facts asserted in the affidavit.

20 **SECTION 54.** 108.141 (1) (h) of the statutes is amended to read:

21 108.141 (1) (h) "State law" means the unemployment insurance law of any
22 state, that has been approved by the U.S. secretary of labor under section 26 USC
23 3304 of the internal revenue code.

24 **SECTION 55.** 108.141 (3g) (a) 3. b. of the statutes is amended to read:

1 108.141 **(3g)** (a) 3. b. The gross average weekly remuneration for the work
2 exceeds the claimant's weekly benefit rate plus any supplemental unemployment
3 benefits, as defined in section 26 USC 501 (c) (17) (D) ~~of the internal revenue code,~~
4 then payable to the claimant;

5 **SECTION 56.** 108.141 (7) (a) of the statutes is amended to read:

6 108.141 **(7)** (a) The department shall charge the state's share of each week of
7 extended benefits to each employer's account in proportion to the employer's share
8 of the total wages of the employee receiving the benefits in the employee's base
9 period, except that if the employer is subject to the contribution requirements of ss.
10 108.17 and 108.18 the department shall charge the share of extended benefits to
11 which s. 108.04 (1) (f), (5), (5g), (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a)
12 ~~or (b) to (c)~~, 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) applies to the fund's
13 balancing account.

14 **SECTION 57.** 108.141 (7) (b) of the statutes is amended to read:

15 108.141 **(7)** (b) The department shall charge the full amount of extended
16 benefits based on employment for a government unit to the account of the
17 government unit, except that if s. 108.04 (5), (5g), or (7) applies and the government
18 unit has elected contribution financing the department shall charge one-half of the
19 government unit's share of the benefits to the fund's balancing account.

20 **SECTION 58.** 108.145 of the statutes is amended to read:

21 **108.145 Disaster unemployment assistance.** The department shall
22 administer under s. 108.14 (9m) the distribution of disaster unemployment
23 assistance to workers in this state who are not eligible for benefits whenever such
24 assistance is made available by the president of the United States under 26 42 USC
25 5177 (a). In determining eligibility for assistance and the amount of assistance

1 payable to any worker who was totally self-employed during the first 4 of the last 5
2 most recently completed quarters preceding the date on which the worker claims
3 assistance, the department shall not reduce the assistance otherwise payable to the
4 worker because the worker receives one or more payments under the social security
5 act (~~42 USC 301 et seq.~~) ch. 7, for the same week that the worker qualifies for such
6 assistance.

7 **SECTION 59.** 108.15 (3) (d) of the statutes is amended to read:

8 108.15 (3) (d) If a government unit elects contribution financing for any
9 calendar year after the first calendar year it becomes newly subject to this chapter,
10 it shall be liable to reimburse the fund for any benefits based on prior employment.
11 If a government unit terminates its election of contribution financing, ss. 108.17 and
12 108.18 shall apply to employment in the prior calendar year, but after all benefits
13 based on such prior employment have been charged to its contribution account any
14 balance remaining in such account shall be transferred to the fund's balancing
15 account.

16 **SECTION 60.** 108.151 (2) (d) of the statutes is amended to read:

17 108.151 (2) (d) Sections 108.17 and 108.18 shall apply to all prior employment,
18 but after all benefits based on prior employment have been charged to any account
19 it has had under s. 108.16 (2) any balance remaining therein shall be transferred to
20 the fund's balancing account as if s. 108.16 (6) (c) or (6m) (d) applied.

21 **SECTION 61.** 108.151 (7) (c) of the statutes is amended to read:

22 108.151 (7) (c) The fund's treasurer shall determine the total amount due from
23 employers electing reimbursement financing under this section that is uncollectible
24 as of June 30 of each year, but not including any amount that the department
25 determined to be uncollectible ~~prior to~~ before January 1, 2004. No amount may be

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1 treated as uncollectible under this paragraph unless the department has exhausted
2 all reasonable remedies for collection of the amount, including liquidation of the
3 assurance required under sub. (4). The department shall charge the total amounts
4 so determined to the uncollectible reimbursable benefits account under s. 108.16
5 (6w). Whenever, as of June 30 of any year, ~~this~~ that account has a negative balance
6 of \$5,000 or more, the treasurer shall, except as provided in par. (i), determine the
7 rate of an assessment to be levied under par. (b) for that year, which shall then
8 become payable by all employers that have elected reimbursement financing under
9 this section as of that date.

10 **SECTION 62.** 108.151 (7) (f) of the statutes is amended to read:

11 108.151 (7) (f) If any employer would otherwise be assessed an amount less
12 than \$10 \$20 for a calendar year, the department shall, in lieu of requiring that
13 employer to pay an assessment for that calendar year, apply the amount that the
14 employer would have been required to pay to the other employers on a pro rata basis.

15 **SECTION 63.** 108.151 (7) (i) of the statutes is created to read:

16 108.151 (7) (i) In lieu of or in addition to assessing employers as provided in
17 par. (b), the fund's treasurer may apply amounts set aside in the fund's balancing
18 account under s. 108.155 (2) (a) to amounts determined to be uncollectible under par.
19 (c) by transferring those amounts to the account under s. 108.16 (6w). The fund's
20 treasurer may not act under this paragraph whenever the balance remaining of the
21 amount set aside under s. 108.155 (2) (a) is less than \$1,750,000 and may not act to
22 reduce the amount set aside below that amount.

23 **SECTION 64.** 108.152 (1) (d) of the statutes is amended to read:

24 108.152 (1) (d) If the Indian tribe or tribal unit is an employer ~~prior to~~ before
25 the effective date of an election, ss. 108.17 and 108.18 shall apply to all employment

1 ~~prior to~~ before the effective date of the election, but after all benefits based on prior
2 employment have been charged to any account that it has had under s. 108.16 (2),
3 the department shall transfer any positive balance or charge any negative balance
4 remaining therein to the fund's balancing account as if s. 108.16 (6) (c) and (6m) (d)
5 applied.

6 **SECTION 65.** 108.155 (2) (a) and (d) of the statutes are amended to read:

7 108.155 (2) (a) On October 2, 2016, the fund's treasurer shall set aside
8 \$2,000,000 in the fund's balancing account for accounting purposes. On an ongoing
9 basis, the fund's treasurer shall tally the amounts allocated to reimbursable
10 employers' accounts under s. 108.04 (13) (d) 4. c. and all amounts transferred to the
11 account under s. 108.16 (6w) as provided in s. 108.151 (7) (i) and shall deduct those
12 amounts from the amount set aside plus any interest calculated thereon.

13 (d) If the department assesses reimbursable employers under par. (c), the
14 department shall determine the amount of assessments to be levied as provided in
15 sub. (3), and the fund's treasurer shall notify reimbursable employers that the
16 assessment will be imposed. Except as provided in sub. (3) (c), the assessment shall
17 be payable by each reimbursable employer that is subject to this chapter as of the
18 date the assessment is imposed. Assessments imposed under this section shall be
19 credited to the fund's balancing account.

20 **SECTION 66.** 108.16 (6m) (a) of the statutes is amended to read:

21 108.16 (6m) (a) The benefits thus chargeable under sub. (7) (a) or (b) or s.
22 108.04 (1) (f), (5), (5g), (7) ~~(h)~~ (u), (7m), (8) (a) ~~or (b) to (c)~~, (13) (c) or (d) or (16) (e),
23 108.07 (3), (3r), (5) (am) 2. and (bm) 3. a., (5m), and (6), 108.133 (3) (f), 108.14 (8n)
24 (e), 108.141, 108.15, 108.151, or 108.152 ~~or sub. (6) (e) or (7) (a) and (b)~~.

25 **SECTION 67.** 108.16 (6m) (j) of the statutes is created to read:

1 108.16 **(6m)** (j) Any amount transferred to the account under sub. (6w) as
2 provided in s. 108.151 (7) (i).

3 **SECTION 68.** 108.16 (6w) of the statutes is amended to read:

4 108.16 **(6w)** The department shall maintain within the fund an uncollectible
5 reimbursable benefits account to which the department shall credit all amounts
6 received from employers under s. 108.151 (7) and all amounts transferred from the
7 fund's balancing account as provided in s. 108.151 (7) (i).

8 **SECTION 69.** 108.16 (6x) of the statutes is amended to read:

9 108.16 **(6x)** The department shall charge to the uncollectible reimbursable
10 benefits account the amount of any benefits paid from the fund's balancing account
11 that are reimbursable under s. 108.151 but for which the department does not receive
12 reimbursement after the department exhausts all reasonable remedies for collection
13 of the amount.

14 **SECTION 70.** 108.16 (9) (a) of the statutes is amended to read:

15 108.16 **(9)** (a) Consistently with section 26 USC 3305 of the internal revenue
16 code, relating to federal instrumentalities ~~which~~ that are neither wholly nor
17 partially owned by the United States nor otherwise specifically exempt from the tax
18 imposed by section under 26 USC 3301 of the internal revenue code:

19 1. Any contributions required and paid under this chapter for ~~1939 or~~ any
20 subsequent year by any such instrumentality, including any national bank, shall be
21 refunded to such that instrumentality in case this chapter is not certified with
22 respect to such year under s. 26 USC 3304 ~~of said code.~~

23 2. No national banking association ~~which~~ is subject to ~~this chapter~~ shall be
24 required to comply with any ~~of its~~ provisions or requirements under this chapter, to
25 the extent that such compliance would be contrary to s. 26 USC 3305 ~~of said code.~~

1 **SECTION 71.** 108.18 (3) (c) of the statutes is amended to read:

2 108.18 **(3)** (c) Permitting the employer to pay such lower rate is consistent with
3 the relevant conditions then applicable to additional credit allowance for such year
4 under section 26 USC 3303 (a) of the federal unemployment tax act, any other
5 provision to the contrary notwithstanding.

6 **SECTION 72.** 108.19 (3) of the statutes is repealed.

7 **SECTION 73.** 108.22 (8e) of the statutes is amended to read:

8 108.22 **(8e)** If the department determines a payment has been made to an
9 unintended recipient erroneously without fault on the part of the intended payee or
10 payee's authorized agent, the department may issue the correct payment to the
11 intended payee if necessary, and may recover the amount of the erroneous payment
12 from the recipient under this section or s. 108.225 or 108.245. Any amount so
13 recovered shall be credited to the fund's balancing account.

14 **SECTION 74.** 108.22 (10) of the statutes is amended to read:

15 108.22 **(10)** A private agency that serves as a fiscal agent under s. 46.2785 or
16 contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.272 (7) (e)
17 or 47.035 as to any individual performing services for a person receiving long-term
18 support services under s. 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286,
19 46.495, 51.42, or 51.437 or personal assistance services under s. 47.02 (6) (c) may be
20 found jointly and severally liable for the amounts owed by the person under this
21 chapter, if, at the time the person's quarterly report is due under this chapter, the
22 private agency served as a fiscal agent for the person. The liability of the agency as
23 provided in this subsection survives dissolution, reorganization, bankruptcy,
24 receivership, assignment for the benefit of creditors, judicially confirmed extension
25 or composition, or any analogous situation of the person and shall be set forth in a

1 determination or decision issued under s. 108.10. An appeal or review of a
2 determination under this subsection shall not include an appeal or review of
3 determinations of amounts owed by the person. This subsection does not apply with
4 respect to a private agency that has made an election under s. 108.065 (3m).

5 **SECTION 75.** 108.223 (2) (b) of the statutes is amended to read:

6 108.223 (2) (b) The department shall enter into agreements with financial
7 institutions doing business in this state to operate the financial record matching
8 program under this section. An agreement shall require the financial institution to
9 participate in the financial record matching program by electing either the financial
10 institution matching option under sub. (3) or the state matching option under sub.
11 (4). The financial institution and the department may by mutual agreement ~~make~~
12 ~~changes to~~ amend the agreement. A financial institution that wishes to choose a
13 different matching option shall provide the department with at least 60 days' notice.
14 The department shall furnish the financial institution with a signed copy of the
15 agreement.

16 **SECTION 76.** 108.23 of the statutes is amended to read:

17 **108.23 Preference of required payments.** In the event of an employer's
18 dissolution, reorganization, bankruptcy, receivership, assignment for benefit of
19 creditors, judicially confirmed extension proposal or composition, or any analogous
20 situation including the administration of estates in circuit courts, the payments
21 required of the employer under this chapter shall have preference over all claims of
22 general creditors and shall be paid next after the payment of preferred claims for
23 wages. If the employer is indebted to the federal government for taxes due under the
24 federal unemployment tax act and a claim for the taxes has been duly filed, the
25 amount of contributions which should be paid to allow the employer the maximum

1 offset against the taxes shall have preference over preferred claims for wages and
2 shall be on a par with debts due the United States, if by establishing the preference
3 the offset against the federal tax can be secured under s. 26 USC 3302 (a) (3) of the
4 ~~federal unemployment tax act.~~

5 **SECTION 77.** 108.24 (3) (a) 3. a. of the statutes is amended to read:

6 108.24 (3) (a) 3. a. Refrain from claiming or accepting benefits, participating
7 in an audit or investigation by the department, or testifying in a hearing held under
8 s. 108.09, 108.095, or 108.10.

9 **SECTION 78.** 108.24 (3) (a) 4. of the statutes is amended to read:

10 108.24 (3) (a) 4. Discriminates or retaliates against an individual because the
11 individual claims benefits, participates in an audit or investigation by the
12 department under this chapter, testifies in a hearing under s. 108.09, 108.095, or
13 108.10, or exercises any other right under this chapter.

14 **SECTION 79. Initial applicability.**

15 (1) The treatment of s. 108.02 (15) (k) 21. first applies to services performed on
16 the effective date of this subsection.

17 (2) The treatment of s. 108.02 (10e) (c) first applies to determinations issued
18 under s. 108.09 on the effective date of this subsection.

19 **SECTION 80. Effective dates.** This act takes effect on the first Sunday after
20 publication, except as follows:

21 (1) The treatment of s. 16.48 (1) (a) (intro.), 1., 2., 3., 4., 5., and 6. and (b), (2),
22 (3), and (4) takes effect on February 1, 2022.

23 (2) The treatment of ss. 108.02 (13) (k) and 108.065 (1e) (intro.) and (3m) takes
24 effect on January 1, 2023.



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4438/P2
MED&EAW:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 16.48 (1) (b), 16.48 (2), 20.445 (1) (gg), 20.445 (1) (gm), 108.02
2 (1), 108.02 (26) (c) 9., 108.02 (26) (c) 14., 108.062 (1) (c), 108.062 (2) (b), 108.062
3 (2) (e), 108.062 (4) (a) 2., 108.062 (19) (a), 108.062 (19) (b), 108.062 (20), 108.14
4 (7) (c), 108.14 (23) (d) and 108.19 (3); **to renumber** 108.04 (7) (h); **to renumber**
5 **and amend** 16.48 (1) (a) (intro.), 16.48 (1) (a) 1., 2., 3., 4., 5. and 6., 20.445 (1)
6 (gc), 20.445 (1) (gd), 20.445 (1) (gh), 108.062 (4) (a) 1., 108.062 (19) (intro.),
7 108.14 (12) (e), 108.14 (18), 108.19 (1), 108.19 (1m), 108.19 (1n), 108.19 (1p),
8 108.19 (1q), 108.19 (1s), 108.19 (2), 108.19 (2m) and 108.19 (4); **to consolidate,**
9 **renumber and amend** 108.14 (12) (a) to (d), 108.161 (1) and (1m) and 108.161
10 (5) and (6); **to amend** 16.48 (3), 20.445 (1) (n), 20.445 (1) (nb), 20.445 (1) (nd),
11 20.445 (1) (ne), 20.445 (1) (u), 20.445 (1) (v), 25.17 (1) (xe), 25.17 (1) (xf), 59.40
12 (4), 71.93 (8) (b) 1., 103.05 (5) (d), 108.02 (2) (c), 108.02 (13) (c) 2. a., 108.02 (13)
13 (k), 108.02 (14), 108.02 (15) (j) 5., 108.02 (15) (k) 5., 108.02 (17m), 108.02 (19),
14 108.04 (11) (f), 108.04 (12) (b), 108.04 (16) (d) 1., 108.04 (18) (a), 108.04 (18) (b),
15 108.062 (2) (a), 108.062 (2) (c), 108.062 (2) (d), 108.062 (2) (h), 108.062 (2) (m),

1 108.062 (3), 108.062 (3r), 108.062 (4) (b), 108.062 (6) (b), 108.062 (15), 108.065
2 (1e) (intro.), 108.07 (5) (am) (intro.), 108.07 (5) (am) 1., 108.07 (5) (am) 3., 108.07
3 (6), 108.09 (5) (b), 108.10 (intro.), 108.13 (4) (a) 2., 108.14 (2m), 108.14 (3m),
4 108.14 (8n) (a), 108.14 (8n) (e), 108.14 (16), 108.14 (26), 108.141 (1) (h), 108.141
5 (3g) (a) 3. b., 108.141 (7) (a), 108.141 (7) (b), 108.145, 108.15 (3) (d), 108.151 (2)
6 (d), 108.151 (7) (c), 108.151 (7) (f), 108.152 (1) (d), 108.155 (2) (a) and (d), 108.16
7 (5) (c), 108.16 (6) (k), 108.16 (6) (m), 108.16 (6m) (a), 108.16 (6w), 108.16 (6x),
8 108.16 (8) (f), 108.16 (9) (a), 108.161 (title), 108.161 (2), 108.161 (3), 108.161
9 (3e), 108.161 (4), 108.161 (7), 108.161 (8), 108.161 (9), 108.162 (7), 108.17 (2m),
10 108.17 (3), 108.17 (3m), 108.18 (3) (c), 108.18 (7) (a) 1., 108.18 (7) (h), 108.19 (1e)
11 (a), 108.19 (1e) (d), 108.19 (1f) (a), 108.19 (1f) (c), 108.22 (1) (am), 108.22 (1m),
12 108.22 (8e), 108.22 (10), 108.223 (2) (b), 108.23, 108.24 (3) (a) 3. a. and 108.24
13 (3) (a) 4.; **to repeal and recreate** 108.19 (title) and 108.20; and **to create** 16.48
14 (4), 20.427 (1) (g), 71.93 (8) (b) 1. d., 108.02 (10e) (c), 108.02 (15) (k) 21., 108.065
15 (3m), 108.101 (5), 108.151 (7) (i), 108.16 (6m) (j), 108.19 (1) (d), 108.19 (1e) (cm)
16 and 108.19 (1m) (e) of the statutes; **relating to:** various changes to the
17 unemployment insurance law and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

Unemployment insurance financial outlook statement; council report; special committee

Under current law, DWD must submit a statement regarding the unemployment insurance financial outlook to the governor and legislative leadership by April 15 of every odd-numbered year. The report must contain all of the following: 1) financial projections of unemployment insurance operations, including benefit payments, tax collections, borrowing or debt repayments, and any amounts of interest charges and the economic and public policy assumptions upon

which the projections are based, and the impact upon the projections of variations from those assumptions; 2) proposed changes to the laws relating to unemployment insurance financing, benefits, and administration and financial projections under the proposed changes; 3) if there are significant cash reserves in the unemployment fund, the justifications for maintaining them; and 4) if program debt is projected at the end of the forecast period, the reasons DWD is not proposing to liquidate the debt.

This bill changes the submittal deadline of the statement to May 31 of every even-numbered year. The bill also requires the statement to contain proposed methods for liquidating any debt, instead of the reasons DWD is not proposing to liquidate any debt.

Under current law, DWD must submit a report of the activities of the Council on Unemployment Insurance to the governor and legislative leadership by May 15 of each odd-numbered year. Current law also requires DWD to submit to each member of the legislature by June 15 of each odd-numbered year an updated statement of unemployment insurance financial outlook.

The bill replaces the two aforementioned requirements with a single requirement for DWD to submit, by January 31 of each even-numbered year, a report of the activities of the Council on Unemployment Insurance and the most recent statement regarding the unemployment insurance financial outlook to the governor and legislative leadership, rather than to every member of the legislature. The bill also requires DWD to post the most recent version of the report and statement on its Internet site.

Finally, under current law, after the report and statement are submitted to the governor and leadership by May 15 of each odd-numbered year, the governor may convene a special committee to review the financial outlook statement and the activities report. This bill repeals that provision. However, the bill does not affect the governor's authority under current law to convene advisory committees by executive order.

Effect of criminal convictions

Current law provides that no finding of fact or law, determination, decision, or judgment in any action or administrative or judicial proceeding in law or equity not arising under the UI law made with respect to the rights or liabilities of a party to an action or proceeding under the UI law is binding in an action or proceeding under the UI law.

The bill provides that notwithstanding this provision, a final order or judgment of conviction for a crime entered by a court is binding on the convicted person in an action or proceeding under the UI law that relates to the criminal conviction, and that a person convicted of a crime is precluded from denying the essential allegations of the criminal offense that is the basis for the conviction in an action or proceeding under the UI law.

Reimbursable employer debt assessment

Under current law, DWD must annually determine the total amount due and uncollectible from nonprofit employers that have elected what is known as reimbursement financing (reimbursable employers), and DWD must then charge that amount to an uncollectible reimbursable benefits account in the unemployment

reserve fund. Whenever, as of a given year, that account has a negative balance of \$5,000 or more, DWD must assess all such nonprofit reimbursable employers to reimburse for the uncollectible amount, except that employers that would otherwise be assessed less than \$10 are not assessed, and their portion is instead applied to the amount owed by other employers on a pro rata basis.

Also under current law, pursuant to 2015 Wisconsin Act 334, \$2,000,000 was set aside in the unemployment reserve fund to repay reimbursable employers for erroneous payments charged to them that resulted from a false statement or representation (e.g., identity theft).

The bill does the following:

1. Raises the threshold for charging a reimbursable nonprofit employer the assessment to \$20 instead of \$10.
2. Allows DWD, in lieu of or in addition to assessing nonprofit reimbursable employers as described above, to apply moneys from the \$2,000,000 set aside to the uncollectible reimbursable benefits account described above, subject to certain limitations.

Waiver of overpayments

Current law requires the recovery of benefits that were erroneously paid to an individual to be waived if certain conditions apply, including that the erroneous payment was the result of a departmental error. Current law specifies what does and does not constitute a “departmental error” and also provides that if a determination or decision is amended, modified, or reversed by an appeal tribunal (administrative law judge), the Labor and Industry Review Commission, or any court, that action is not to be treated as establishing a departmental error.

This bill specifically provides that, for the purposes of the waiver of recovery of benefits, a “departmental error” does not include an error made by an administrative law judge.

Excluded employment

This bill excludes from coverage under the UI law seasonal work performed by a full-time student at an organized camp, other than an organized camp operated by a governmental or nonprofit entity, that operates for not more than seven months per calendar year, consistent with federal law. Under the bill, “full-time student” includes a person who is currently enrolled in school full time or who was enrolled in school full time during the previous academic year if there is a reasonable assurance that the person will be so enrolled for the immediately succeeding academic year. An individual who performs such services is not eligible to claim UI benefits based on the performance of the services, and a person who employs an individual to perform such services is not subject to a state UI contribution requirement (a requirement to pay taxes) based on the performance of the services.

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 UI 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 reduced by the same percentage as the percentage reduction in the claimant's normal working hours that the claimant incurs under the program. Former law provided also for the temporary modification of certain requirements that apply to work-share programs with respect to work-share programs submitted on or after April 17, 2020, and before July 4, 2021.

This bill makes a number of the former-law modifications permanent. Among other things, it eliminates a requirement that work-share programs be limited to particular work units, reduces the minimum number of employees who must be covered under a work-share program from 20 to two, and eliminates a requirement that working hours be reduced equitably among employees. In addition, the bill allows a work-share program to remain in effect for 12 months in any five-year period instead of six months in any five-year period.

Collection of debt by Department of Revenue

Subject to certain exceptions, current law requires a state agency and the Department of Revenue to enter into a written agreement to have DOR collect certain amounts owed to the state agency. This bill provides that this requirement does not apply to amounts owed to DWD under the UI law or other federal unemployment programs administered by DWD.

Fiscal agent election of employer status

Generally, under current law, an individual who receives long-term support services in his or her home through certain government-funded care programs is considered to be an employer under the UI law of a person who provides those services to the individual. Such individuals may use fiscal agents, whose responsibilities include remitting any federal UI taxes or state UI contributions owed by the individual as a result of that employment.

The bill allows a private agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent to such an individual receiving long-term support services to elect to instead be the employer of one or more employees providing those services, subject to certain requirements.

Segregated fund

This bill creates a segregated fund to receive various program revenue moneys received by DWD under the UI law that are not otherwise credited to other segregated funds, including various moneys collected by DWD as interest and penalties under the UI law and all other nonfederal moneys received for the administration of the UI law that are not otherwise appropriated. Current law provides for depositing these revenues in appropriations in the general fund.

Other changes

The bill makes various changes to a) reorganize, clarify, and update provisions relating to the financing of the UI law; and b) address numerous out-of-date or erroneous cross-references in the UI law, including all of the following:

1. Repealing and consolidating certain appropriations and making other changes to clarify the funding sources and receiving appropriations for various revenues and expenses under the UI law.

2. Creating a program revenue appropriation for the Labor and Industry Review Commission to collect moneys received for the copying and generation of documents and for other services provided in carrying out its functions.

3. Changing certain out-of-date cross-references to federal law to reflect current federal law and the current numbering under the U.S. Code.

4. Repealing certain provisions that reference federal laws that have been repealed and deleting other obsolete references to state laws.

5. Correcting various cross-references that are otherwise incomplete or erroneous.

6. Replacing certain references to provisions in federal acts or to the Internal Revenue Code with references to the U.S. Code in order to facilitate accessibility to federal law.

7. Making other nonsubstantive changes to the UI law to improve organization, modernize language, and provide further clarity, specificity, and consistency in the law.

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.** 16.48 (1) (a) (intro.) of the statutes is renumbered 16.48 (1) (intro.)
2 and amended to read:

3 16.48 **(1)** (intro.) No later than ~~April 15~~ May 31 of each ~~odd-numbered~~
4 even-numbered year, the secretary of workforce development shall prepare and
5 furnish to the governor, the speaker of the assembly, the minority leader of the
6 assembly, ~~and the majority and minority leaders of the senate,~~ and the council on
7 unemployment insurance, a statement of unemployment insurance financial
8 outlook, which shall contain all of the following, together with the secretary's
9 recommendations and an explanation for such recommendations:

1 **SECTION 2.** 16.48 (1) (a) 1., 2., 3., 4., 5. and 6. of the statutes are renumbered
2 16.48 (1) (am), (bm), (c), (d), (e) and (f), and 16.48 (1) (bm), (c) and (f), as renumbered,
3 are amended to read:

4 16.48 (1) (bm) Specific proposed changes, if any, in the laws relating to
5 unemployment insurance financing, benefits, and administration.

6 (c) Projections specified in ~~subd. 1. par. (am)~~ under the proposed laws.

7 (f) If unemployment insurance program debt is projected at the end of the
8 forecast period, the reasons why it is not methods proposed to liquidate the debt.

9 **SECTION 3.** 16.48 (1) (b) of the statutes is repealed.

10 **SECTION 4.** 16.48 (2) of the statutes is repealed.

11 **SECTION 5.** 16.48 (3) of the statutes is amended to read:

12 16.48 (3) ~~No Biennially, no later than June 15 January 31 of each~~
13 ~~odd-numbered~~ even-numbered year, the secretary of workforce development, ~~under~~
14 ~~the direction of~~ shall submit to the governor, shall submit to each member of the
15 ~~legislature an updated~~ speaker of the assembly, the minority leader of the assembly,
16 the majority and minority leaders of the senate, and the council on unemployment
17 insurance the statement of unemployment insurance financial outlook ~~which shall~~
18 ~~contain the information specified in~~ prepared under sub. (1) (a), together with the
19 ~~governor's recommendations and an explanation for such recommendations, and a~~
20 ~~copy of the~~ a report required that summarizes the deliberations of the council and
21 the position of the council regarding any proposed change to the unemployment
22 insurance laws submitted under sub. (1) (b).

23 **SECTION 6.** 16.48 (4) of the statutes is created to read:

1 16.48 (4) The department shall post the most recent version of the statement
2 prepared under sub. (1) and the most recent version of the report prepared under sub.
3 (3) on the department's Internet site.

4 **SECTION 7.** 20.427 (1) (g) of the statutes is created to read:

5 20.427 (1) (g) *Agency collections.* All moneys received from fees or other
6 charges for copying of documents, generation of copies of documents from optical disc
7 or electronic storage, publication of books, and other services provided in carrying
8 out the functions of the commission.

9 **SECTION 8.** 20.445 (1) (gc) of the statutes is renumbered 20.445 (1) (wc) and
10 amended to read:

11 20.445 (1) (wc) *Unemployment administration.* All From the unemployment
12 administration fund, all moneys received by the department under s. 108.19 ~~not~~
13 ~~otherwise appropriated under this subsection (1) for the administration of ch. 108.~~

14 **SECTION 9.** 20.445 (1) (gd) of the statutes is renumbered 20.445 (1) (wd) and
15 amended to read:

16 20.445 (1) (wd) *Unemployment interest and penalty payments.* All From the
17 unemployment administration fund, all moneys received as interest and penalties
18 collected under ss. 108.04 (11) (c) and (cm) ~~and (13) (e)~~ and 108.22 except interest and
19 penalties deposited under s. 108.19 (1q), ~~and forfeitures under s. 103.05 (5), all~~
20 ~~moneys not appropriated under par. (gg) and 108.20 (3), all moneys received as~~
21 forfeitures under s. 103.05 (5), all moneys received under s. 108.09 (5) (c), all moneys
22 received under s. 108.14 (16), all moneys received under s. 108.18 (1) (c), all moneys
23 transferred to this appropriation account from the appropriation account under par.
24 (gh) (wh), and all other nonfederal moneys received for the employment service or
25 for the administration of ch. 108 that are not otherwise appropriated under this

1 ~~subsection,~~ for the payment of benefits specified in s. 108.07 (5) and ~~1987 Wisconsin~~
2 ~~Act 38, section 132 (1) (e),~~ for the payment of interest to employers under s. 108.17
3 (3m), for research relating to the condition of the unemployment reserve fund under
4 s. 108.14 (6), for administration of the unemployment insurance program and federal
5 or state unemployment insurance programs authorized by the governor under s.
6 16.54, for satisfaction of any federal audit exception concerning a payment from the
7 unemployment reserve fund or any federal aid disallowance concerning the
8 unemployment insurance program, for assistance to the department of justice in the
9 enforcement of ch. 108, for the payment of interest due on advances from the federal
10 unemployment account under ~~title XII of the social security act~~ 42 USC 1321 to 1324
11 to the unemployment reserve fund, and for payments made to the unemployment
12 reserve fund to obtain a lower interest rate or deferral of interest payments on these
13 advances, ~~except as otherwise provided in s. 108.20.~~

14 **SECTION 10.** 20.445 (1) (gg) of the statutes is repealed.

15 **SECTION 11.** 20.445 (1) (gh) of the statutes is renumbered 20.445 (1) (wh) and
16 amended to read:

17 20.445 (1) (wh) *Unemployment information technology systems; assessments.*
18 ~~All~~ From the unemployment administration fund, all moneys received from
19 assessments levied under s. 108.19 (1e) (a) and ~~1997 Wisconsin Act 39, section 164~~
20 ~~(2),~~ for the purpose specified in s. 108.19 (1e) (d). The treasurer of the unemployment
21 reserve fund may transfer moneys from this appropriation account to the
22 appropriation account under par. ~~(gd)~~ (wd).

23 **SECTION 12.** 20.445 (1) (gm) of the statutes is repealed.

24 **SECTION 13.** 20.445 (1) (n) of the statutes is amended to read:

1 20.445 (1) (n) *Employment assistance and unemployment insurance*
2 *administration; federal moneys.* All federal moneys received, as authorized by the
3 governor under s. 16.54, for the administration of employment assistance and
4 unemployment insurance programs of the department, for the performance of the
5 department's other functions under subch. I of ch. 106 and ch. 108, and to pay the
6 compensation and expenses of appeal tribunals and of employment councils
7 appointed under s. 108.14, to be used for such purposes, except as provided in s.
8 108.161 (3e), and, from the moneys received by this state under ~~section 903~~ 42 USC
9 1103 (d) of the federal Social Security Act, as amended, to transfer to the
10 appropriation account under par. (nb) an amount determined by the treasurer of the
11 unemployment reserve fund not exceeding the lesser of the amount specified in s.
12 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the
13 appropriation account under par. (nd) an amount determined by the treasurer of the
14 unemployment reserve fund not exceeding the lesser of the amount specified in s.
15 108.161 (4) (d) or the amounts in the schedule under par. (nd), to transfer to the
16 appropriation account under par. (ne) an amount not exceeding the lesser of the
17 amount specified in s. 108.161 (4) (d) or the sum of the amounts in the schedule under
18 par. (ne) and the amount determined by the treasurer of the unemployment reserve
19 fund that is required to pay for the cost of banking services incurred by the
20 unemployment reserve fund, and to transfer to the appropriation account under s.
21 20.427 (1) (k) an amount determined by the treasurer of the unemployment reserve
22 fund.

23 **SECTION 14.** 20.445 (1) (nb) of the statutes is amended to read:

24 20.445 (1) (nb) *Unemployment administration; information technology*
25 *systems.* From the moneys received from the federal government under ~~section 903~~

1 ~~42 USC 1103~~ (d) of the federal Social Security Act, as amended, as a continuing
2 appropriation, the amounts in the schedule, as authorized by the governor under s.
3 16.54, for the purpose specified in s. 108.19 (1e) (d). All moneys transferred from par.
4 (n) for this purpose shall be credited to this appropriation account. No moneys may
5 be expended from this appropriation unless the treasurer of the unemployment
6 reserve fund determines that such expenditure is currently needed for the purpose
7 specified in s. 108.19 (1e) (d).

8 **SECTION 15.** 20.445 (1) (nd) of the statutes is amended to read:

9 20.445 (1) (nd) *Unemployment administration; apprenticeship and other*
10 *employment services.* From the moneys received from the federal government under
11 ~~section 903~~ 42 USC 1103 (d) of the federal Social Security Act, as amended, the
12 amounts in the schedule, as authorized by the governor under s. 16.54, to be used for
13 administration by the department of apprenticeship programs under subch. I of ch.
14 106 and for administration and service delivery of employment and workforce
15 information services, including the delivery of reemployment assistance services to
16 unemployment insurance claimants. All moneys transferred from par. (n) for this
17 purpose shall be credited to this appropriation account. No moneys may be expended
18 from this appropriation unless the treasurer of the unemployment reserve fund
19 determines that such expenditure is currently needed for the purposes specified in
20 this paragraph.

21 **SECTION 16.** 20.445 (1) (ne) of the statutes is amended to read:

22 20.445 (1) (ne) *Unemployment insurance administration and bank service*
23 *costs.* From the moneys received by this state under ~~section 903~~ of the federal Social
24 Security Act, as amended 42 USC 1103, all moneys transferred from the
25 appropriation account under par. (n) to be used for the administration of

1 unemployment insurance and for the payment of the cost of banking services
2 incurred by the unemployment reserve fund. No moneys may be expended from this
3 appropriation unless the treasurer of the unemployment reserve fund determines
4 that such expenditure is currently needed for the purpose specified in this
5 paragraph.

6 **SECTION 17.** 20.445 (1) (u) of the statutes is amended to read:

7 20.445 (1) (u) *Unemployment interest payments and transfers.* From the
8 unemployment interest payment fund, all moneys received from assessments under
9 s. 108.19 (1m) (a) for the purpose of making the payments and transfers authorized
10 under s. 108.19 (1m) (f).

11 **SECTION 18.** 20.445 (1) (v) of the statutes is amended to read:

12 20.445 (1) (v) *Unemployment program integrity.* From the unemployment
13 program integrity fund, all moneys received from sources identified under s. ~~108.19~~
14 ~~(1s)~~ 108.20 (2) (a) for the purpose of making the payments authorized under s. ~~108.19~~
15 ~~(1s)~~ 108.20 (2) (b).

16 **SECTION 19.** 25.17 (1) (xe) of the statutes is amended to read:

17 25.17 (1) (xe) Unemployment interest payment fund (s. ~~108.19 (1q)~~ 108.20 (3));

18 **SECTION 20.** 25.17 (1) (xf) of the statutes is amended to read:

19 25.17 (1) (xf) Unemployment program integrity fund (s. ~~108.19 (1s)~~ 108.20 (2));

20 **SECTION 21.** 59.40 (4) of the statutes is amended to read:

21 59.40 (4) CLERK OF CIRCUIT COURT; DEBT COLLECTOR CONTRACT. If authorized by
22 the board under s. 59.52 (28), the clerk of circuit court may contract with a debt
23 collector, as defined in s. 427.103 (3), or enter into an agreement with the department
24 of revenue under s. 71.93 (8) for the collection of debt. Any contract entered into with
25 a debt collector shall provide that the debt collector shall be paid from the proceeds

1 recovered by the debt collector. Any contract entered into with the department shall
2 provide that the department shall charge a collection fee, as provided under s. 71.93
3 (8) (b) ~~1~~ 1m. The net proceeds received by the clerk of circuit court after the payment
4 to the debt collector shall be considered the amount of debt collected for purposes of
5 distribution to the state and county under sub. (2) (m).

6 **SECTION 22.** 71.93 (8) (b) 1. of the statutes is amended to read:

7 71.93 (8) (b) 1. Except as provided in subd. 2., a state agency and the
8 department of revenue shall enter into a written agreement to have the department
9 collect any amount owed to the state agency that is more than 90 days past due,
10 unless ~~negotiations~~ any of the following applies:

11 a. Negotiations between the agency and debtor are actively ongoing, ~~the~~

12 b. The debt is the subject of legal action or administrative proceedings, ~~or the~~

13 c. The agency determines that the debtor is adhering to an acceptable payment
14 arrangement.

15 1m. At least 30 days before the department pursues the collection of any debt
16 referred by a state agency, either the department or the agency shall provide the
17 debtor with a written notice that the debt will be referred to the department for
18 collection. The department may collect amounts owed, pursuant to the written
19 agreement, from the debtor in addition to offsetting the amounts as provided under
20 sub. (3). The department shall charge each debtor whose debt is subject to collection
21 under this paragraph a collection fee and that amount shall be credited to the
22 appropriation under s. 20.566 (1) (h).

23 **SECTION 23.** 71.93 (8) (b) 1. d. of the statutes is created to read:

1 71.93 (8) (b) 1. d. The debt is an amount owed under ch. 108 or under a federal
2 unemployment benefit program administered by the department of workforce
3 development.

4 **SECTION 24.** 103.05 (5) (d) of the statutes is amended to read:

5 103.05 (5) (d) The department shall deposit all moneys received under this
6 subsection in the appropriation account under s. 20.445 (1) (gd) (wd).

7 **SECTION 25.** 108.02 (1) of the statutes is repealed.

8 **SECTION 26.** 108.02 (2) (c) of the statutes is amended to read:

9 108.02 (2) (c) In connection with the production or harvesting of any commodity
10 defined as an agricultural commodity in s. 15 (g) of the federal agricultural marketing
11 act, as amended (46 Stat. 1550, s. 3; under 12 USC 1141j) or (f), in connection with the
12 ginning of cotton, or in connection with the operation or maintenance of ditches, canals,
13 reservoirs, or waterways, not owned or operated for profit, used exclusively for
14 supplying and storing water for farming purposes.

15 **SECTION 27.** 108.02 (10e) (c) of the statutes is created to read:

16 108.02 (10e) (c) “Departmental error” does not include an error made by an
17 appeal tribunal appointed under s. 108.09 (3).

18 **SECTION 28.** 108.02 (13) (c) 2. a. of the statutes is amended to read:

19 108.02 (13) (c) 2. a. Such crew leader holds a valid certificate of registration
20 ~~under the federal farm labor contractor registration act of 1963~~ 29 USC 1801 to 1872;
21 or substantially all the members of such crew operate or maintain tractors,
22 mechanized harvesting or cropdusting equipment, or any other mechanized
23 equipment which is provided by such crew leader; and

24 **SECTION 29.** 108.02 (13) (k) of the statutes is amended to read:

1 108.02 (13) (k) “Employer” Except as provided in s. 108.065 (3m), “employer”
2 does not include a county department, an aging unit, or, under s. 46.2785, a private
3 agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve
4 as a fiscal agent under s. ~~46.27 (5) (i)~~, 46.272 (7) (e), or 47.035 as to any individual
5 performing services for a person receiving long-term support services under s.
6 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or
7 personal assistance services under s. 47.02 (6) (c).

8 **SECTION 30.** 108.02 (14) of the statutes is amended to read:

9 108.02 (14) EMPLOYER'S ACCOUNT. “Employer’s account” means ~~a~~ an employer’s
10 separate account in the fund, ~~reflecting the employer’s experience with respect to~~
11 ~~contribution credits and benefit charges under this chapter~~ maintained as required
12 under s. 108.16 (2) (a).

13 **SECTION 31.** 108.02 (15) (j) 5. of the statutes is amended to read:

14 108.02 (15) (j) 5. In any quarter in the employ of any organization exempt from
15 federal income tax under section 26 USC 501 (a) ~~of the internal revenue code~~, other
16 than an organization described in section 26 USC 401 (a) or 501 (c) (3) ~~of such code~~,
17 or under section 26 USC 521 ~~of the internal revenue code~~, if the remuneration for
18 such service is less than \$50;

19 **SECTION 32.** 108.02 (15) (k) 5. of the statutes is amended to read:

20 108.02 (15) (k) 5. With respect to which unemployment insurance is payable
21 under the federal railroad unemployment insurance act ~~(52 Stat. 1094)~~ 45 USC 351
22 to 369;

23 **SECTION 33.** 108.02 (15) (k) 21. of the statutes is created to read:

1 108.02 (15) (k) 21. Performed by a full-time student, as defined in 26 USC 3306
2 (q), for less than 13 calendar weeks in a calendar year in the employ of an organized
3 camp, if one of the following applies:

4 a. The camp does not operate for more than 7 months in the calendar year and
5 did not operate for more than 7 months in the preceding calendar year.

6 b. The camp had average gross receipts for any 6 months in the preceding
7 calendar year that were not more than 33 1/3 percent of its average gross receipts for
8 the other 6 months in the preceding calendar year.

9 **SECTION 34.** 108.02 (17m) of the statutes is amended to read:

10 108.02 (17m) INDIAN TRIBE. "Indian tribe" has the meaning given in 25 USC
11 ~~450b~~ 5304 (e), and includes any subdivision, subsidiary, or business enterprise that
12 is wholly owned by such an entity.

13 **SECTION 35.** 108.02 (19) of the statutes is amended to read:

14 108.02 (19) NONPROFIT ORGANIZATIONS. "Nonprofit organization" means an
15 organization described in ~~section 26 USC~~ 501 (c) (3) of the Internal Revenue Code
16 that is exempt from federal income tax under ~~section 26 USC~~ 501 (a) of the Internal
17 Revenue Code.

18 **SECTION 36.** 108.02 (26) (c) 9. of the statutes is repealed.

19 **SECTION 37.** 108.02 (26) (c) 14. of the statutes is repealed.

20 **SECTION 38.** 108.04 (7) (h) of the statutes is renumbered 108.04 (7) (u).

21 **SECTION 39.** 108.04 (11) (f) of the statutes is amended to read:

22 108.04 (11) (f) All amounts forfeited under par. (c) and all collections from
23 administrative assessments under par. (cm) shall be credited to the ~~administrative~~
24 ~~account~~ appropriation under s. 20.445 (1) (wd).

25 **SECTION 40.** 108.04 (12) (b) of the statutes is amended to read:

1 108.04 **(12)** (b) Any individual who receives, through the department, any other
2 type of unemployment benefit or allowance for a given week is ineligible for benefits
3 for that same week under this chapter, except as specifically required for conformity
4 with ~~the federal trade act of 1974 (P.L. 93-618)~~ 19 USC 2101 to 2497b.

5 **SECTION 41.** 108.04 (16) (d) 1. of the statutes is amended to read:

6 108.04 **(16)** (d) 1. The department shall not deny benefits under sub. (7) as a
7 result of the individual's leaving unsuitable work to enter or continue such training,
8 as a result of the individual's leaving work that the individual engaged in on a
9 temporary basis during a break in the training or a delay in the commencement of
10 the training, or because the individual left on-the-job training not later than 30 days
11 after commencing that training because the individual did not meet the
12 requirements ~~of the federal trade act~~ under 19 USC 2296 (c) (1) (B); and

13 **SECTION 42.** 108.04 (18) (a) of the statutes is amended to read:

14 108.04 **(18)** (a) The wages paid to an employee who performed services while
15 the employee was an alien shall, if based on such services, be excluded from the
16 employee's base period wages for purposes of sub. (4) (a) and ss. 108.05 (1) and 108.06
17 (1) unless the employee is an alien who was lawfully admitted for permanent
18 residence at the time such services were performed, was lawfully present for the
19 purpose of performing such services, or was permanently residing in the United
20 States under color of law at the time such services were performed, including an alien
21 who was lawfully present in the United States as a result of the application of the
22 provisions of ~~section 212 (d) (5) of the federal immigration and nationality act~~ (8 USC
23 1182 (d) (5)). All claimants shall be uniformly required to provide information as to
24 whether they are citizens and, if they are not, any determination denying benefits
25 under this subsection shall not be made except upon a preponderance of the evidence.

1 **SECTION 43.** 108.04 (18) (b) of the statutes is amended to read:

2 108.04 **(18)** (b) Any amendment of ~~s. 26 USC 3304 (a) (14) of the federal~~
3 ~~unemployment tax act~~ specifying conditions other than as stated in par. (a) for denial
4 of benefits based on services performed by aliens, or changing the effective date for
5 required implementation of par. (a) or such other conditions, ~~which that is a condition~~
6 of approval of this chapter for full tax credit against the tax imposed by the federal
7 unemployment tax act, shall be applicable to this subsection.

8 **SECTION 44.** 108.062 (1) (c) of the statutes is repealed.

9 **SECTION 45.** 108.062 (2) (a) of the statutes is amended to read:

10 108.062 **(2)** (a) Specify the ~~work unit in which the plan will be implemented,~~
11 ~~the affected positions,~~ and the names of the employees filling those positions on the
12 date of submittal.

13 **SECTION 46.** 108.062 (2) (b) of the statutes is repealed.

14 **SECTION 47.** 108.062 (2) (c) of the statutes is amended to read:

15 108.062 **(2)** (c) Provide for initial coverage under the plan of at least ~~20~~ 2
16 positions that are filled on the effective date of the work-share program.

17 **SECTION 48.** 108.062 (2) (d) of the statutes is amended to read:

18 108.062 **(2)** (d) Specify the period or periods when the plan will be in effect,
19 which may not exceed a total of ~~6~~ 12 months in any 5-year period ~~within the same~~
20 ~~work unit.~~

21 **SECTION 49.** 108.062 (2) (e) of the statutes is repealed.

22 **SECTION 50.** 108.062 (2) (h) of the statutes is amended to read:

23 108.062 **(2)** (h) Specify the normal average hours per week worked by each
24 employee ~~in the work unit~~ and the percentage reduction in the average hours of work
25 per week worked by that employee, exclusive of overtime hours, which shall be

1 applied in a uniform manner and which shall be at least 10 percent but not more than
2 ~~50~~ 60 percent of the normal hours per week of that employee.

3 **SECTION 51.** 108.062 (2) (m) of the statutes is amended to read:

4 108.062 (2) (m) Indicate whether the plan includes employer-sponsored
5 training to enhance job skills and acknowledge that the employees in the ~~work unit~~
6 work-share program may participate in training funded under the federal
7 Workforce Innovation and Opportunity Act, 29 USC 3101 to 3361, or another federal
8 law that enhances job skills without affecting availability for work, subject to
9 department approval.

10 **SECTION 52.** 108.062 (3) of the statutes is amended to read:

11 108.062 (3) APPROVAL OF PLANS. The department shall approve a plan if the plan
12 includes all of the elements specified in sub. (2) ~~or (20), whichever is applicable.~~ The
13 approval is effective for the effective period of the plan unless modified under sub.
14 (3m).

15 **SECTION 53.** 108.062 (3r) of the statutes is amended to read:

16 108.062 (3r) APPLICABILITY OF LAWS. A work-share program shall be governed
17 by the law that was in effect when the plan or modification was last approved under
18 sub. (3) or (3m), until the program ends as provided in sub. (4), but an employer with
19 ~~a work-share program governed by sub. (2) may, while sub. (20) is in effect,~~ apply for
20 a modification under sub. (3m), and that modification application shall be governed
21 by ~~sub. (20)~~ the law in effect when the modification is approved.

22 **SECTION 54.** 108.062 (4) (a) 1. of the statutes is renumbered 108.062 (4) (a) and
23 amended to read:

24 108.062 (4) (a) ~~Except as provided in subd. 2., a~~ A work-share program
25 becomes effective on the later of the Sunday of the ~~2nd week beginning~~ or after

1 approval of a work-share plan under sub. (3) or any Sunday after that day specified
2 in the plan.

3 **SECTION 55.** 108.062 (4) (a) 2. of the statutes is repealed.

4 **SECTION 56.** 108.062 (4) (b) of the statutes is amended to read:

5 108.062 (4) (b) A work-share program ends on the earlier of the last Sunday
6 that precedes the end of the ~~6-month~~ 12-month period beginning on the effective
7 date of the program or any Sunday before that day specified in the plan unless the
8 program terminates on an earlier date under sub. (5), (14), or (15).

9 **SECTION 57.** 108.062 (6) (b) of the statutes is amended to read:

10 108.062 (6) (b) No employee who is included ~~in a work unit~~ under a work-share
11 program is eligible to receive any benefits for a week in which the plan is in effect in
12 which the employee is engaged in work for the employer that sponsors the plan ~~which~~
13 that, when combined with work performed by the employee for any other employer
14 for the same week, ~~exceed~~ exceeds 90 percent of the employee's average hours of work
15 per week for the employer that creates the plan, as identified in the plan.

16 **SECTION 58.** 108.062 (15) of the statutes is amended to read:

17 108.062 (15) INVOLUNTARY TERMINATION. If in any week there are fewer than 20
18 2 employees who are included in a work-share program of any employer, the program
19 terminates on the 2nd Sunday following the end of that week. ~~This subsection does~~
20 ~~not apply to a work-share program to which sub. (20) applies.~~

21 **SECTION 59.** 108.062 (19) (intro.) of the statutes is renumbered 108.062 (19) and
22 amended to read:

23 108.062 (19) SECRETARY MAY WAIVE COMPLIANCE. The secretary may ~~do any of the~~
24 following waive compliance with any requirement under this section if the secretary
25 determines that doing so is necessary to permit continued certification of this

1 chapter for grants to this state under Title III of the federal Social Security Act, for
2 maximum credit allowances to employers under the federal Unemployment Tax Act,
3 or for this state to qualify for full federal financial participation in the cost of
4 administration of this section and financing of benefits to employees participating
5 in work-share programs under this section.

6 **SECTION 60.** 108.062 (19) (a) of the statutes is repealed.

7 **SECTION 61.** 108.062 (19) (b) of the statutes is repealed.

8 **SECTION 62.** 108.062 (20) of the statutes, as affected by 2021 Wisconsin Act 4,
9 is repealed.

10 **SECTION 63.** 108.065 (1e) (intro.) of the statutes is amended to read:

11 108.065 (1e) (intro.) Except as provided in subs. (2) and ~~(3)~~ to (3m), if there is
12 more than one employing unit that has a relationship to an employee, the
13 department shall determine which of the employing units is the employer of the
14 employee by doing the following:

15 **SECTION 64.** 108.065 (3m) of the statutes is created to read:

16 108.065 (3m) A private agency that serves as a fiscal agent or contracts with
17 a fiscal intermediary to serve as a fiscal agent to recipients of services under ch. 46,
18 47, or 51 may elect to be the employer of one or more employees providing those
19 services. As a condition of eligibility for election to be the employer of one or more
20 employees providing those services, the private agency shall notify in writing the
21 recipient of any such services of its election, for purposes of the unemployment
22 insurance law, to be the employer of any worker providing such services to the
23 recipient, and must be treated as the employer under 26 USC 3301 to 3311 for
24 purposes of federal unemployment taxes on the worker's services.

25 **SECTION 65.** 108.07 (5) (am) (intro.) of the statutes is amended to read:

1 108.07 (5) (am) (intro.) Except as provided in sub. (7), whenever benefits
2 which ~~that~~ would otherwise be chargeable to the fund's balancing account are paid
3 based on wages paid by an employer that is not subject to the contribution
4 requirements of ss. 108.17 and 108.18, and the benefits are so chargeable under
5 sub. (3) or s. 108.04 (1) (f) ~~or~~, (5), or (5g) or 108.14 (8n) (e), or under s. 108.16 (6m)
6 (e) for benefits specified in s. 108.16 (3) (b), the department shall charge the
7 benefits as follows:

8 **SECTION 66.** 108.07 (5) (am) 1. of the statutes is amended to read:

9 108.07 (5) (am) 1. If no employer from which the claimant has base period
10 wages is subject to the contribution requirements of ss. 108.17 and 108.18, the
11 benefits shall be ~~charged to the administrative account and~~ paid from the
12 appropriation under s. 20.445 (1) (gd) (wd).

13 **SECTION 67.** 108.07 (5) (am) 3. of the statutes is amended to read:

14 108.07 (5) (am) 3. If 2 or more employers from which the claimant has base
15 period wages are not subject to the contribution requirements of ss. 108.17 and
16 108.18, and one or more employers from which the claimant has base period wages
17 are subject to the contribution requirements of ss. 108.17 and 108.18, that
18 percentage of the employee's benefits which would otherwise be chargeable to the
19 fund's balancing account under sub. (3) or s. 108.04 (1) (f) ~~or~~, (5), or (5g), or under s.
20 108.16 (6m) (e) for benefits specified in s. 108.16 (3) (b), shall be ~~charged to the~~
21 ~~administrative account and~~ paid from the appropriation under s. 20.445 (1) (gd) (wd).

22 **SECTION 68.** 108.07 (6) of the statutes is amended to read:

23 108.07 (6) The department may initially charge benefits otherwise ~~chargeable~~
24 ~~to the administrative account payable from the appropriation under s. 20.445 (1)~~
25 (wd) as provided under this section to the fund's balancing account, and periodically

1 reimburse the charges to the balancing account from the ~~administrative account~~
2 appropriation under s. 20.445 (1) (wd).

3 **SECTION 69.** 108.09 (5) (b) of the statutes is amended to read:

4 108.09 (5) (b) All testimony at any hearing under this section shall be recorded
5 by electronic means, but need not be transcribed unless either of the parties requests
6 a transcript before expiration of that party's right to further appeal under this
7 section and pays a fee to the commission in advance, the amount of which shall be
8 established by rule of the commission. When the commission provides a transcript
9 to one of the parties upon request, the commission shall also provide a copy of the
10 transcript to all other parties free of charge. The transcript fee collected shall be ~~paid~~
11 to the administrative account credited to the appropriation account under s. 20.427
12 (1) (g).

13 **SECTION 70.** 108.10 (intro.) of the statutes is amended to read:

14 **108.10 Settlement of issues other than benefit claims.** (intro.) Except as
15 provided in s. 108.245 (3), in connection with any issue arising under this chapter as
16 to the status or liability of an employing unit ~~in this state~~, for which no review is
17 provided under s. 108.09, 108.095, or 108.227 (5) and whether or not a penalty is
18 provided in s. 108.24, the following procedure shall apply:

19 **SECTION 71.** 108.101 (5) of the statutes is created to read:

20 108.101 (5) Notwithstanding sub. (4), a final order or judgment of conviction
21 for a crime entered by a court is binding on the convicted person in an action or
22 proceeding under this chapter that relates to the criminal conviction. A person
23 convicted of a crime is precluded from denying the essential allegations of the
24 criminal offense that is the basis for the conviction in an action or proceeding under
25 this chapter.

1 **SECTION 72.** 108.13 (4) (a) 2. of the statutes is amended to read:

2 108.13 **(4)** (a) 2. “Legal process” has the meaning given under 42 USC ~~662 (e)~~
3 659 (i) (5).

4 **SECTION 73.** 108.14 (2m) of the statutes is amended to read:

5 108.14 **(2m)** In the discharge of their duties under this chapter an appeal
6 tribunal, commissioner, or other authorized representative of the department or
7 commission may administer oaths to persons appearing before them, take
8 depositions, certify to official acts, and by subpoenas, served in the manner in which
9 circuit court subpoenas are served, compel attendance of witnesses and the
10 production of books, papers, documents, and records necessary or convenient to be
11 used by them in connection with any investigation, hearing, or other proceeding
12 under this chapter. A party’s attorney of record may issue a subpoena to compel the
13 attendance of a witness or the production of evidence. A subpoena issued by an
14 attorney must be in substantially the same form as provided in s. 805.07 (4) and must
15 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of
16 issuance, send a copy of the subpoena to the appeal tribunal or other representative
17 of the department responsible for conducting the proceeding. However, in any
18 investigation, hearing, or other proceeding involving the administration of oaths or
19 the use of subpoenas under this subsection due notice shall be given to any interested
20 party involved, who shall be given an opportunity to appear and be heard at any such
21 proceeding and to examine witnesses and otherwise participate therein. Witness
22 fees and travel expenses involved in proceedings under this chapter may be allowed
23 by the appeal tribunal or representative of the department at rates specified by
24 department rules, and shall be paid from the ~~administrative account~~ appropriation
25 under s. 20.445 (1) (n).

1 **SECTION 74.** 108.14 (3m) of the statutes is amended to read:

2 108.14 **(3m)** In any court action to enforce this chapter the department, the
3 commission, and the state may be represented by any licensed attorney who is an
4 employee of the department or the commission and is designated by either of them
5 for this purpose or at the request of either of them by the department of justice. If
6 the governor designates special counsel to defend, in behalf of the state, the validity
7 of this chapter or of any provision of ~~Title IX of the social security act~~ 42 USC 1101
8 to 1111, the expenses and compensation of the special counsel and of any experts
9 employed by the department in connection with that proceeding may be charged to
10 the ~~administrative account~~ appropriation under s. 20.445 (1) (wd). If the
11 compensation is being determined on a contingent fee basis, the contract is subject
12 to s. 20.9305.

13 **SECTION 75.** 108.14 (7) (c) of the statutes is repealed.

14 **SECTION 76.** 108.14 (8n) (a) of the statutes is amended to read:

15 108.14 **(8n)** (a) The department shall enter into a reciprocal arrangement
16 ~~which is approved by the U.S. secretary of labor pursuant to section~~ under 26 USC
17 3304 (a) (9) (B) of the internal revenue code, to provide more equitable benefit
18 coverage for individuals whose recent work has been covered by the unemployment
19 insurance laws of 2 or more jurisdictions.

20 **SECTION 77.** 108.14 (8n) (e) of the statutes is amended to read:

21 108.14 **(8n)** (e) The department shall charge this state's share of any benefits
22 paid under this subsection to the account of each employer by which the employee
23 claiming benefits was employed in the applicable base period, in proportion to the
24 total amount of wages he or she earned from each employer in the base period, except
25 that if s. 108.04 (1) (f), (5), ~~(5g)~~, (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a)

1 ~~or (b) to (c)~~, 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) would have applied to
2 employment by such an employer who is subject to the contribution requirements of
3 ss. 108.17 and 108.18, the department shall charge the share of benefits based on
4 employment with that employer to the fund's balancing account, or, if s. 108.04 (1)
5 (f) ~~or, (5), or (5g)~~ or 108.07 (3) would have applied to an employer that is not subject
6 to the contribution requirements of ss. 108.17 and 108.18, the department shall
7 charge the share of benefits based on that employment in accordance with s. 108.07
8 (5) (am) 1. and 2. The department shall also charge the fund's balancing account with
9 any other state's share of such benefits pending reimbursement by that state.

10 **SECTION 78.** 108.14 (12) (a) to (d) of the statutes are consolidated, renumbered
11 108.14 (12) (am) and amended to read:

12 108.14 (12) (am) Consistently with the provisions of ~~pars. (8) and (9) of section~~
13 ~~303 (a) of Title III of the federal social security act, 42 USC 503 (a) (8) and (9), the~~
14 department shall expend all moneys received in the federal administrative financing
15 account from any federal agency under said Title III ~~shall be expended 42 USC ch.~~
16 7 subch. III solely for the purposes and in the amounts found necessary by said that
17 agency for the ~~proper and efficient~~ administration of this chapter. ~~(b) Consistently~~
18 ~~with said provisions of said Title III, any~~ The department shall replace, within a
19 reasonable time, any such moneys; that were received ~~prior to before~~ July 1, 1941,
20 and ~~remaining~~ remained unencumbered on said that date, or that were received on
21 or after said that date, ~~which, because of any action or contingency, have been~~ if the
22 moneys are lost or have been expended for purposes other than, or in amounts in
23 excess of, those found necessary by said the federal agency for the ~~proper~~
24 administration of this chapter, ~~shall be replaced within a reasonable time. This~~
25 ~~paragraph is the declared policy of this state, as enunciated by the 1941 legislature,~~

1 ~~and shall be implemented as further provided in this subsection.~~ (c). If it is believed
2 that any amount of money thus received ~~has been thus~~ is lost or improperly
3 expended, the department, on its own motion or on notice from said the federal
4 agency, shall promptly investigate and determine the matter and shall, depending
5 on the nature of its determination, take such steps as it ~~may deem~~ considers
6 necessary to protect the interests of the state. (d) If it is finally determined that
7 moneys ~~thus received~~ have been thus lost or improperly expended, ~~then~~ the
8 department shall either make the necessary replacement from ~~those moneys in the~~
9 ~~administrative account specified in s. 108.20 (2m)~~ the appropriation under s. 20.445
10 (1) (wd) or shall submit, at the next budget hearings conducted by the governor and
11 at the budget hearings conducted by the next legislature convened in regular session,
12 a request that the necessary replacement be made by an appropriation from the
13 general fund.

14 **SECTION 79.** 108.14 (12) (e) of the statutes is renumbered 108.14 (12) (bm) and
15 amended to read:

16 108.14 **(12)** (bm) This subsection shall not be construed to relieve this state of
17 any obligation existing ~~prior to its enactment~~ before July 1, 1941, with respect to
18 moneys received ~~prior to~~ before July 1, 1941, pursuant to said Title III under 42 USC
19 ch. 7 subch. III.

20 **SECTION 80.** 108.14 (16) of the statutes is amended to read:

21 108.14 **(16)** The department shall have duplicated or printed, ~~and shall~~
22 ~~distribute without charge, such employment security~~ any reports, studies and,
23 forms, records, decisions, regulations, rules, or other materials, including the text of
24 this chapter and, the handbook under sub. (23), and other instructional or
25 explanatory pamphlets for employers or workers, as that it deems necessary for

1 public information or for the proper administration of this chapter; ~~but the.~~ The
2 department may collect a reasonable charge, which shall be credited to the
3 ~~administrative~~ appropriation account under s. 20.445 (1) (wd), for any such item the
4 cost of which is not fully covered by federal administrative grants.

5 **SECTION 81.** 108.14 (18) of the statutes is renumbered 108.19 (1e) (e) and
6 amended to read:

7 108.19 (1e) (e) No later than the end of the month following each quarter in
8 which the department expends moneys derived from assessments levied under s.
9 ~~108.19 (1e)~~ this subsection, the department shall submit a report to the council on
10 unemployment insurance describing the use of the moneys expended and the status
11 at the end of the quarter of any project for which moneys were expended.

12 **SECTION 82.** 108.14 (23) (d) of the statutes is repealed.

13 **SECTION 83.** 108.14 (26) of the statutes is amended to read:

14 108.14 (26) The department shall prescribe by rule a standard affidavit form
15 that may be used by parties to appeals under ss. 108.09, ~~108.095~~, and 108.10 and
16 shall make the form available to employers and claimants. The form shall be
17 sufficient to qualify as admissible evidence in a hearing under this chapter if the
18 authentication is sufficient and the information set forth by the affiant is admissible,
19 but its use by a party does not eliminate the right of an opposing party to cross
20 examine the affiant concerning the facts asserted in the affidavit.

21 **SECTION 84.** 108.141 (1) (h) of the statutes is amended to read:

22 108.141 (1) (h) "State law" means the unemployment insurance law of any
23 state, that has been approved by the U.S. secretary of labor under ~~section~~ 26 USC
24 3304 of the internal revenue code.

25 **SECTION 85.** 108.141 (3g) (a) 3. b. of the statutes is amended to read:

1 108.141 **(3g)** (a) 3. b. The gross average weekly remuneration for the work
2 exceeds the claimant's weekly benefit rate plus any supplemental unemployment
3 benefits, as defined in section 26 USC 501 (c) (17) (D) of the internal revenue code,
4 then payable to the claimant;

5 **SECTION 86.** 108.141 (7) (a) of the statutes is amended to read:

6 108.141 **(7)** (a) The department shall charge the state's share of each week of
7 extended benefits to each employer's account in proportion to the employer's share
8 of the total wages of the employee receiving the benefits in the employee's base
9 period, except that if the employer is subject to the contribution requirements of ss.
10 108.17 and 108.18 the department shall charge the share of extended benefits to
11 which s. 108.04 (1) (f), (5), (5g), (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a)
12 ~~or (b) to (c)~~, 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) applies to the fund's
13 balancing account.

14 **SECTION 87.** 108.141 (7) (b) of the statutes is amended to read:

15 108.141 **(7)** (b) The department shall charge the full amount of extended
16 benefits based on employment for a government unit to the account of the
17 government unit, except that if s. 108.04 (5), (5g), or (7) applies and the government
18 unit has elected contribution financing the department shall charge one-half of the
19 government unit's share of the benefits to the fund's balancing account.

20 **SECTION 88.** 108.145 of the statutes is amended to read:

21 **108.145 Disaster unemployment assistance.** The department shall
22 administer under s. 108.14 (9m) the distribution of disaster unemployment
23 assistance to workers in this state who are not eligible for benefits whenever such
24 assistance is made available by the president of the United States under 26 42 USC
25 5177 (a). In determining eligibility for assistance and the amount of assistance

1 payable to any worker who was totally self-employed during the first 4 of the last 5
2 most recently completed quarters preceding the date on which the worker claims
3 assistance, the department shall not reduce the assistance otherwise payable to the
4 worker because the worker receives one or more payments under the social security
5 act (~~42 USC 301 et seq.~~) ch. 7, for the same week that the worker qualifies for such
6 assistance.

7 **SECTION 89.** 108.15 (3) (d) of the statutes is amended to read:

8 108.15 (3) (d) If a government unit elects contribution financing for any
9 calendar year after the first calendar year it becomes newly subject to this chapter,
10 it shall be liable to reimburse the fund for any benefits based on prior employment.
11 If a government unit terminates its election of contribution financing, ss. 108.17 and
12 108.18 shall apply to employment in the prior calendar year, but after all benefits
13 based on such prior employment have been charged to its contribution account any
14 balance remaining in such account shall be transferred to the fund's balancing
15 account.

16 **SECTION 90.** 108.151 (2) (d) of the statutes is amended to read:

17 108.151 (2) (d) Sections 108.17 and 108.18 shall apply to all prior employment,
18 but after all benefits based on prior employment have been charged to any account
19 it has had under s. 108.16 (2) any balance remaining therein shall be transferred to
20 the fund's balancing account as if s. 108.16 (6) (c) or (6m) (d) applied.

21 **SECTION 91.** 108.151 (7) (c) of the statutes is amended to read:

22 108.151 (7) (c) The fund's treasurer shall determine the total amount due from
23 employers electing reimbursement financing under this section that is uncollectible
24 as of June 30 of each year, but not including any amount that the department
25 determined to be uncollectible ~~prior to~~ before January 1, 2004. No amount may be

1 treated as uncollectible under this paragraph unless the department has exhausted
2 all reasonable remedies for collection of the amount, including liquidation of the
3 assurance required under sub. (4). The department shall charge the total amounts
4 so determined to the uncollectible reimbursable benefits account under s. 108.16
5 (6w). Whenever, as of June 30 of any year, ~~this~~ that account has a negative balance
6 of \$5,000 or more, the treasurer shall, except as provided in par. (i), determine the
7 rate of an assessment to be levied under par. (b) for that year, which shall then
8 become payable by all employers that have elected reimbursement financing under
9 this section as of that date.

10 **SECTION 92.** 108.151 (7) (f) of the statutes is amended to read:

11 108.151 (7) (f) If any employer would otherwise be assessed an amount less
12 than \$10 \$20 for a calendar year, the department shall, in lieu of requiring that
13 employer to pay an assessment for that calendar year, apply the amount that the
14 employer would have been required to pay to the other employers on a pro rata basis.

15 **SECTION 93.** 108.151 (7) (i) of the statutes is created to read:

16 108.151 (7) (i) In lieu of or in addition to assessing employers as provided in
17 par. (b), the fund's treasurer may apply amounts set aside in the fund's balancing
18 account under s. 108.155 (2) (a) to amounts determined to be uncollectible under par.
19 (c) by transferring those amounts to the account under s. 108.16 (6w). The fund's
20 treasurer may not act under this paragraph whenever the balance remaining of the
21 amount set aside under s. 108.155 (2) (a) is less than \$1,750,000 and may not act to
22 reduce the amount set aside below that amount.

23 **SECTION 94.** 108.152 (1) (d) of the statutes is amended to read:

24 108.152 (1) (d) If the Indian tribe or tribal unit is an employer ~~prior to~~ before
25 the effective date of an election, ss. 108.17 and 108.18 shall apply to all employment

1 ~~prior to~~ before the effective date of the election, but after all benefits based on prior
2 employment have been charged to any account that it has had under s. 108.16 (2),
3 the department shall transfer any positive balance or charge any negative balance
4 remaining therein to the fund's balancing account as if s. 108.16 (6) (c) and (6m) (d)
5 applied.

6 **SECTION 95.** 108.155 (2) (a) and (d) of the statutes are amended to read:

7 108.155 (2) (a) On October 2, 2016, the fund's treasurer shall set aside
8 \$2,000,000 in the fund's balancing account for accounting purposes. On an ongoing
9 basis, the fund's treasurer shall tally the amounts allocated to reimbursable
10 employers' accounts under s. 108.04 (13) (d) 4. c. and all amounts transferred to the
11 account under s. 108.16 (6w) as provided in s. 108.151 (7) (i) and shall deduct those
12 amounts from the amount set aside plus any interest calculated thereon.

13 (d) If the department assesses reimbursable employers under par. (c), the
14 department shall determine the amount of assessments to be levied as provided in
15 sub. (3), and the fund's treasurer shall notify reimbursable employers that the
16 assessment will be imposed. Except as provided in sub. (3) (c), the assessment shall
17 be payable by each reimbursable employer that is subject to this chapter as of the
18 date the assessment is imposed. Assessments imposed under this section shall be
19 credited to the fund's balancing account.

20 **SECTION 96.** 108.16 (5) (c) of the statutes is amended to read:

21 108.16 (5) (c) While the state has an account in the "Unemployment Trust
22 Fund", "public deposit insurance charges" on the fund's balances held in banks,
23 savings banks, savings and loan associations, and credit unions in this state, the
24 premiums on surety bonds required of the fund's treasurer under this section, and
25 any other expense of administration otherwise payable from the fund's interest

1 earnings, shall be paid from the ~~administrative account~~ appropriation under s.
2 20.445 (1) (n) or (ne).

3 **SECTION 97.** 108.16 (6) (k) of the statutes is amended to read:

4 108.16 **(6)** (k) All payments to the fund from the ~~administrative account~~ as
5 ~~authorized under s. 108.20 (2m)~~ appropriation under s. 20.445 (1) (wd).

6 **SECTION 98.** 108.16 (6) (m) of the statutes is amended to read:

7 108.16 **(6)** (m) Any amounts transferred to the balancing account from the
8 unemployment interest payment fund under s. 108.19 (1m) (f).

9 **SECTION 99.** 108.16 (6m) (a) of the statutes is amended to read:

10 108.16 **(6m)** (a) The benefits thus chargeable under sub. (7) (a) or (b) or s.
11 108.04 (1) (f), (5), (5g), (7) ~~(h)~~ (u), (7m), (8) (a) ~~or (b)~~ to (c), (13) (c) or (d) or (16) (e),
12 108.07 (3), (3r), (5) (am) 2. and (bm) 3. a., (5m), and (6), 108.133 (3) (f), 108.14 (8n)
13 (e), 108.141, ~~108.15~~, 108.151, or 108.152 ~~or sub. (6) (e) or (7) (a) and (b).~~

14 **SECTION 100.** 108.16 (6m) (j) of the statutes is created to read:

15 108.16 **(6m)** (j) Any amount transferred to the account under sub. (6w) as
16 provided in s. 108.151 (7) (i).

17 **SECTION 101.** 108.16 (6w) of the statutes is amended to read:

18 108.16 **(6w)** The department shall maintain within the fund an uncollectible
19 reimbursable benefits account to which the department shall credit all amounts
20 received from employers under s. 108.151 (7) and all amounts transferred from the
21 fund's balancing account as provided in s. 108.151 (7) (i).

22 **SECTION 102.** 108.16 (6x) of the statutes is amended to read:

23 108.16 **(6x)** The department shall charge to the uncollectible reimbursable
24 benefits account the amount of any benefits paid from the fund's balancing account
25 that are reimbursable under s. 108.151 but for which the department does not receive

1 reimbursement after the department exhausts all reasonable remedies for collection
2 of the amount.

3 **SECTION 103.** 108.16 (8) (f) of the statutes is amended to read:

4 108.16 (8) (f) The successor shall take over and continue the transferor's
5 account, including its positive or negative balance and all other aspects of its
6 experience under this chapter in proportion to the payroll assignable to the
7 transferred business and the liability of the successor shall be proportioned to the
8 extent of the transferred business. The transferor and the successor shall be jointly
9 and severally liable for any amounts owed by the transferor ~~to the fund and to the~~
10 ~~administrative account~~ under this chapter at the time of the transfer, but a successor
11 under par. (c) is not liable for the debts of the transferor except in the case of fraud
12 or malfeasance.

13 **SECTION 104.** 108.16 (9) (a) of the statutes is amended to read:

14 108.16 (9) (a) Consistently with section 26 USC 3305 of the internal revenue
15 code, relating to federal instrumentalities which ~~that~~ that are neither wholly nor
16 partially owned by the United States nor otherwise specifically exempt from the tax
17 imposed by section under 26 USC 3301 of the internal revenue code:

18 1. Any contributions required and paid under this chapter for ~~1939 or any~~
19 ~~subsequent~~ year by any such instrumentality, including any national bank, shall be
20 refunded to such ~~such~~ that instrumentality in case this chapter is not certified with
21 respect to such year under s. 26 USC 3304 of said code.

22 2. No national banking association which is subject to ~~this chapter~~ shall be
23 required to comply with any of its provisions or requirements under this chapter, to
24 the extent that such compliance would be contrary to s. 26 USC 3305 of said code.

25 **SECTION 105.** 108.161 (title) of the statutes is amended to read:

1 **108.161** (title) **Federal administrative financing account; Reed Act**
2 **distributions.**

3 **SECTION 106.** 108.161 (1) and (1m) of the statutes are consolidated,
4 renumbered 108.161 (1) and amended to read:

5 108.161 (1) The fund's treasurer shall maintain within the fund an
6 employment security "federal administrative financing account",² and shall credit
7 thereto to that account all amounts credited to the fund pursuant to the federal
8 employment security administrative financing act (of 1954) and section 903 of the
9 federal social security act, as amended. ~~(1m)~~ The treasurer of the fund shall also
10 credit to said account under 42 USC 1101 to 1103 and all federal moneys credited to
11 the fund pursuant to under sub. (8).

12 **SECTION 107.** 108.161 (2) of the statutes is amended to read:

13 108.161 (2) The requirements of ~~said section 903~~ 42 USC 1103 shall control any
14 appropriation, withdrawal, and use of any moneys in said the federal administrative
15 financing account.

16 **SECTION 108.** 108.161 (3) of the statutes is amended to read:

17 108.161 (3) Consistently with this chapter and ~~said section 903~~, such 42 USC
18 1103, moneys in the federal administrative financing account shall be used solely for
19 benefits or employment security administration by the department, including
20 unemployment insurance, employment service, apprenticeship programs, and
21 related statistical operations.

22 **SECTION 109.** 108.161 (3e) of the statutes is amended to read:

23 108.161 (3e) Notwithstanding sub. (3), any moneys allocated under ~~section 903~~
24 ~~of the federal Social Security Act, as amended,~~ 42 USC 1103 for federal fiscal years
25 2000 and 2001 and the first \$2,389,107 of any distribution received by this state

1 under ~~section 903 of that act~~ 42 USC 1103 in federal fiscal year 2002 shall be used
2 solely for unemployment insurance administration.

3 **SECTION 110.** 108.161 (4) of the statutes is amended to read:

4 108.161 (4) ~~Such moneys~~ Moneys in the federal administrative financing
5 account shall be encumbered and spent for employment security administrative
6 purposes only pursuant to, and after the effective date of, a specific legislative
7 appropriation enactment that does all of the following:

8 (a) ~~Stating States~~ for which such purposes and in what amounts the
9 appropriation is being made ~~to the administrative account created by s. 108.20.~~

10 (b) ~~Directing Directs~~ the fund's treasurer to transfer the appropriated amounts
11 ~~to the administrative account~~ the appropriation account under s. 20.445 (1) (n) only
12 as and to the extent that they are currently needed for such expenditures, and
13 ~~directing directs~~ that there shall be restored to the federal administrative financing
14 ~~account created by sub. (1)~~ any amount thus transferred ~~which~~ that has ceased to be
15 needed or available for such expenditures.

16 (c) ~~Specifying Specifies~~ that the appropriated amounts are available for
17 obligation solely within the 2 years beginning on the appropriation law's date of
18 enactment. This paragraph does not apply to the appropriations under s. 20.445 (1)
19 (nd) and (ne) or to any amounts expended from the appropriation under s. 20.445 (1)
20 (nb) from moneys transferred to this state on March 13, 2002, pursuant to ~~section 903~~
21 ~~(d) of the federal Social Security Act~~ 42 USC 1103 (d).

22 (d) ~~Limiting Limits~~ the total amount ~~which~~ that may be obligated during any
23 fiscal year to the aggregate of all amounts credited under sub. (1), including amounts
24 credited ~~pursuant to~~ under sub. (8), reduced at the time of any obligation by the sum
25 of the moneys obligated and charged against any of the amounts credited.

1 **SECTION 111.** 108.161 (5) and (6) of the statutes are consolidated, renumbered
2 108.161 (5m) and amended to read:

3 108.161 **(5m)** The total of the amounts thus appropriated under sub. (4) for use
4 in any fiscal year shall in no event exceed the moneys available for such use
5 hereunder under this section, considering the timing of credits hereunder under this
6 section and the sums already spent or appropriated or transferred or otherwise
7 encumbered hereunder. ~~(6)~~ under this section. The fund's treasurer shall keep a
8 record of all such times and amounts; shall charge transactions and shall do all of the
9 following:

10 (a) Charge each sum against the earliest credits duly available therefor; shall
11 include.

12 (b) Include any sum thus that has been appropriated but not yet spent
13 hereunder under this section in computing the fund's net balance as of the close of
14 any month, in line with the federal requirement that any such sum shall, until spent,
15 be considered part of the fund; and shall certify.

16 (c) Certify the relevant facts whenever necessary hereunder.

17 **SECTION 112.** 108.161 (7) of the statutes is amended to read:

18 108.161 **(7)** If any moneys appropriated hereunder under this section are used
19 to buy and hold suitable land, ~~with a view to the future construction of an~~ and to build
20 a suitable employment security building thereon, and if such land is later sold or
21 transferred to other use, the proceeds of such sale (, or the value of such land when
22 transferred), shall be credited to the federal administrative financing account
23 created by sub. (1) except as otherwise provided in ss. 13.48 (14) and 16.848.

24 **SECTION 113.** 108.161 (8) of the statutes is amended to read:

1 108.161 (8) If any sums are appropriated and spent ~~hereunder~~ under this
2 section to buy land and to build a suitable employment security building thereon, or
3 to purchase information technology hardware and software, ~~then~~ any federal
4 moneys thereafter credited to the fund or paid to the department by way of gradual
5 reimbursement of such employment security capital expenditures, or in lieu of the
6 estimated periodic amounts ~~which~~ that would otherwise (, in the absence of such
7 expenditures), be federally granted for the rental of substantially equivalent
8 quarters, shall be credited to the federal administrative financing account ~~created~~
9 ~~by sub. (1)~~, consistently with any federal requirements applicable to the handling
10 and crediting of such moneys.

11 **SECTION 114.** 108.161 (9) of the statutes is amended to read:

12 108.161 (9) Any land and building or office quarters acquired under this section
13 shall continue to be used for employment security purposes. Realty or quarters may
14 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)
15 or 16.848 (1) and may not be sold or transferred without the governor's approval. The
16 proceeds from the sale, or the value of realty or quarters upon transfer, shall be
17 credited to the federal administrative financing account ~~established in sub. (1)~~ or
18 credited to the ~~fund established in s. 108.20~~ appropriate appropriation account
19 under s. 20.445, or both as determined by the department in accordance with federal
20 requirements. Equivalent substitute rent-free quarters may be provided, as
21 federally approved. Amounts credited under this subsection shall be used solely to
22 finance employment security quarters according to federal requirements.

23 **SECTION 115.** 108.162 (7) of the statutes is amended to read:

1 108.162 (7) Any amount appropriated under s. 20.445 (1) (na) ~~which~~ that has
2 not been obligated shall be available for employment security local office building
3 projects, consistent with this section and ~~ss. s. 108.161 and 108.20.~~

4 **SECTION 116.** 108.17 (2m) of the statutes is amended to read:

5 108.17 (2m) When a written statement of account is issued to an employer by
6 the department, ~~showing as duly credited~~ that shows a specified amount received
7 from the employer under this chapter as having been credited, no other form of state
8 receipt ~~therefor~~ is required.

9 **SECTION 117.** 108.17 (3) of the statutes is amended to read:

10 108.17 (3) If an employing unit ~~makes application~~ applies to the department
11 to adjust an alleged overpayment by the employer of contributions or interest under
12 this chapter, and files such an application within 3 years after the close of the
13 calendar year in which such payment was made, the department shall ~~make a~~
14 ~~determination~~ determine under s. 108.10 ~~as to the existence and whether and to~~
15 ~~what~~ extent of any such an overpayment, and said section shall apply to such
16 ~~determination~~ exists. Except as provided in sub. (3m), the department shall allow
17 an employer a credit for any amount determined under s. 108.10 to have been
18 erroneously paid by the employer, without interest, against its future contribution
19 payments; or, if the department finds it impracticable to allow the employer such a
20 credit, it shall refund ~~such~~ the overpayment to the employer, without interest, from
21 the fund or the ~~administrative account, as the case may be~~ appropriate appropriation
22 under s. 20.445.

23 **SECTION 118.** 108.17 (3m) of the statutes is amended to read:

24 108.17 (3m) If an appeal tribunal or the commission issues a decision under
25 s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is

1 determined that an amount has been erroneously paid by an employer, the
2 department shall, from the ~~administrative account~~ appropriation under s. 20.445 (1)
3 (wd), credit the employer with interest at the rate of 0.75 percent per month or
4 fraction thereof on the amount of the erroneous payment. Interest shall accrue from
5 the month which the erroneous payment was made until the month in which it is
6 either used as a credit against future contributions or refunded to the employer.

7 **SECTION 119.** 108.18 (3) (c) of the statutes is amended to read:

8 108.18 (3) (c) Permitting the employer to pay such lower rate is consistent with
9 the relevant conditions then applicable to additional credit allowance for such year
10 under ~~section 26 USC 3303 (a) of the federal unemployment tax act~~, any other
11 provision to the contrary notwithstanding.

12 **SECTION 120.** 108.18 (7) (a) 1. of the statutes is amended to read:

13 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make
14 payments to the fund during the month of November in excess of those required by
15 this section and s. 108.19 ~~(1), (1e), and (1f)~~. Each payment shall be credited to the
16 employer's account for the purpose of computing the employer's reserve percentage
17 as of the immediately preceding computation date.

18 **SECTION 121.** 108.18 (7) (h) of the statutes is amended to read:

19 108.18 (7) (h) The department shall establish contributions, other than ~~those~~
20 contributions required by this section and assessments required under s. 108.19 (1),
21 (1e), and (1f) and contributions other than those submitted during the month of
22 November or authorized under par. (f) or (i) 2., as a credit, without interest, against
23 future contributions payable by the employer or shall refund the contributions at the
24 employer's option.

25 **SECTION 122.** 108.19 (title) of the statutes is repealed and recreated to read:

1 **108.19** (title) **Special assessments.**

2 **SECTION 123.** 108.19 (1) of the statutes is renumbered 108.19 (1) (a) and
3 amended to read:

4 108.19 (1) (a) Each employer subject to this chapter shall regularly ~~contribute~~
5 ~~to the administrative account at the rate of two-tenths of one~~ pay an assessment
6 equal to 0.2 percent per year on its payroll, except that the department may prescribe
7 at the close of any fiscal year such lower rates ~~of contribution~~ under this section
8 subsection, to apply to classes of employers throughout the ensuing fiscal year, as will
9 in the department's judgment adequately finance the administration of this chapter,
10 and as will in the department's judgment fairly represent the relative cost of the
11 services rendered by the department to each such class.

12 **SECTION 124.** 108.19 (1) (d) of the statutes is created to read:

13 108.19 (1) (d) Assessments under this subsection shall be credited to the
14 appropriation account under s. 20.445 (1) (wc).

15 **SECTION 125.** 108.19 (1e) (a) of the statutes is amended to read:

16 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an
17 employer that finances benefits by reimbursement in lieu of contributions under s.
18 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
19 under s. 108.18 and this section, pay an assessment ~~to the administrative account~~
20 for each year ~~prior to~~ before the year 2010 equal to the lesser of 0.01 percent of its
21 payroll for that year or the solvency contribution that would otherwise be payable
22 by the employer under s. 108.18 (9) for that year.

23 **SECTION 126.** 108.19 (1e) (cm) of the statutes is created to read:

24 108.19 (1e) (cm) Assessments under this subsection shall be credited to the
25 appropriation under s. 20.445 (1) (wh).

1 **SECTION 127.** 108.19 (1e) (d) of the statutes is amended to read:

2 108.19 (1e) (d) The department may expend the moneys received from
3 assessments levied under this subsection in the amounts authorized under s. 20.445
4 (1) ~~(gh)~~ (wh) for the renovation and modernization of unemployment insurance
5 information technology systems, specifically including development and
6 implementation of a new system and reengineering of automated processes and
7 manual business functions.

8 **SECTION 128.** 108.19 (1f) (a) of the statutes is amended to read:

9 108.19 (1f) (a) Except as provided in par. (b), each employer, other than an
10 employer that finances benefits by reimbursement in lieu of contributions under s.
11 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable
12 under s. 108.18 and this section, pay an assessment for each year equal to the lesser
13 of 0.01 percent of its payroll for that year or the solvency contribution that would
14 otherwise be payable by the employer under s. 108.18 (9) for that year.

15 (d) Assessments under this ~~paragraph~~ subsection shall be deposited in the
16 unemployment program integrity fund.

17 **SECTION 129.** 108.19 (1f) (c) of the statutes is amended to read:

18 108.19 (1f) (c) Notwithstanding par. (a), the department may, if it finds that the
19 full amount of the levy is not required to effect the purposes specified in ~~sub. (1s)~~ s.
20 108.20 (2) (b) for any year, prescribe a reduced levy for that year and in such case shall
21 publish in the notice under par. (b) the rate of the reduced levy.

22 **SECTION 130.** 108.19 (1m) of the statutes is renumbered 108.19 (1m) (a) and
23 amended to read:

24 108.19 (1m) (a) Each employer subject to this chapter as of the date a rate is
25 established under this subsection shall pay an assessment ~~to the unemployment~~

1 ~~interest payment fund~~ at a rate established by the department sufficient to pay
2 interest due on advances from the federal unemployment account under ~~Title XII of~~
3 ~~the federal social security act~~, 42 USC 1321 to 1324. The rate established by the
4 department for employers who finance benefits under s. 108.15 (2), 108.151 (2), or
5 108.152 (1) shall be 75 percent of the rate established for other employers. The
6 amount of any employer's assessment shall be the product of the rate established for
7 that employer multiplied by the employer's payroll of the previous calendar year as
8 taken from quarterly employment and wage reports filed by the employer under s.
9 108.205 (1) or, in the absence of the filing of such reports, estimates made by the
10 department.

11 (d) Each assessment made under this subsection is due within 30 days after the
12 date the department issues the assessment. ~~If the~~

13 (f) The department shall use amounts collected from employers under this
14 subsection exceed the amounts needed to pay interest due on advances from the
15 federal unemployment account under 42 USC 1321 to 1324. If the amounts collected
16 exceed the amounts needed to pay that interest for a given year, the department shall
17 use any the excess to pay interest owed in subsequent years on advances from the
18 federal unemployment account. If the department determines that additional
19 interest obligations are unlikely, the department shall transfer the excess to the
20 fund's balancing account ~~of the fund~~, the unemployment program integrity fund, or
21 both in amounts determined by the department.

22 **SECTION 131.** 108.19 (1m) (e) of the statutes is created to read:

23 108.19 (1m) (e) Assessments under this subsection shall be deposited in the
24 unemployment interest payment fund.

1 **SECTION 132.** 108.19 (1n) of the statutes is renumbered 108.19 (1m) (b) and
2 amended to read:

3 108.19 **(1m)** (b) The department shall publish as a class 1 notice under ch. 985
4 any rate established under ~~sub. (1m)~~ par. (a) within 10 days of after the date that the
5 rate is established.

6 **SECTION 133.** 108.19 (1p) of the statutes is renumbered 108.19 (1m) (c) and
7 amended to read:

8 108.19 **(1m)** (c) Notwithstanding ~~sub. (1m)~~ par. (a), an employer having a
9 payroll of \$25,000 or less for the preceding calendar year is exempt from any
10 assessment under ~~sub. (1m)~~ this subsection.

11 **SECTION 134.** 108.19 (1q) of the statutes is renumbered 108.20 (3) and amended
12 to read:

13 108.20 **(3)** UNEMPLOYMENT INTEREST PAYMENT FUND. There is created a separate,
14 nonlapsible trust fund designated as the unemployment interest payment fund
15 consisting of all amounts collected under ~~sub. s. 108.19~~ (1m) (a) and all interest and
16 penalties on those amounts collected under s. 108.22.

17 **SECTION 135.** 108.19 (1s) of the statutes is renumbered 108.20 (2), and 108.20
18 (2) (a) 2. and 3., as renumbered, are amended to read:

19 108.20 **(2)** (a) 2. Assessments levied and deposited into the unemployment
20 program integrity fund under ~~sub. (1f)~~ s. 108.19 (1f).

21 3. Amounts transferred under ~~sub. (1m)~~ s. 108.19 (1m) (f).

22 **SECTION 136.** 108.19 (2) of the statutes is renumbered 108.19 (1) (b) and
23 amended to read:

24 108.19 **(1)** (b) If the department finds, at any time within a fiscal year for which
25 it has prescribed lower ~~contribution~~ rates to the ~~administrative~~ account than the

1 maximum rate permitted under ~~sub. (1) par. (a)~~, that such lower rates will not
2 adequately finance the administration of this chapter or are excessive for that
3 purpose, the department may by ~~general rule~~ prescribe a new schedule of rates in no
4 case exceeding the specified maximum to apply under this ~~section~~ subsection for the
5 balance of the fiscal year.

6 **SECTION 137.** 108.19 (2m) of the statutes is renumbered 108.19 (1) (c) and
7 amended to read:

8 108.19 (1) (c) Within the limit specified by ~~sub. (1) under par. (a)~~, the
9 department may by rule prescribe at any time as to any period any such rate or rates
10 or schedule as it deems necessary and proper ~~hereunder~~ under this subsection.
11 Unless thus prescribed, no such rate or rates or schedule shall apply under ~~sub. (1)~~
12 ~~or (2) par. (a) or (b)~~.

13 **SECTION 138.** 108.19 (3) of the statutes is repealed.

14 **SECTION 139.** 108.19 (4) of the statutes is renumbered 108.18 (1) (c) and
15 amended to read:

16 108.18 (1) (c) ~~If section 303 Notwithstanding par. (b), if 42 USC 503 (a) (5) of~~
17 ~~title III of the social security act and section 26 USC 3304 (a) (4) of the internal~~
18 ~~revenue code are amended to permit a state agency to use, in financing~~
19 ~~administrative expenditures incurred in carrying out its employment security~~
20 ~~functions, some any part of the moneys collected or to be collected under the state~~
21 ~~unemployment insurance law, an employer's contributions in partial or complete~~
22 ~~substitution for grants under title III 42 USC 501 to 506, then this chapter shall, by~~
23 ~~rule of the department, be modified in the manner and to the extent and within the~~
24 ~~limits necessary to permit such use by the department under this chapter; and the~~
25 ~~modifications shall become effective on the same date as such use becomes~~

1 ~~permissible under the federal amendments~~ the department may credit any portion
2 of that part of an employer's contributions to the appropriation under s. 20.445 (1)
3 (wd).

4 **SECTION 140.** 108.20 of the statutes is repealed and recreated to read:

5 **108.20 Segregated funds. (1) UNEMPLOYMENT ADMINISTRATION FUND.** There
6 is created a separate, nonlapsible trust fund designated as the unemployment
7 administration fund consisting of moneys credited to the appropriation accounts
8 under s. 20.445 (1) (wc), (wd), and (wh).

9 **(2) UNEMPLOYMENT PROGRAM INTEGRITY FUND.**

10 **SECTION 141.** 108.22 (1) (am) of the statutes is amended to read:

11 108.22 **(1)** (am) The interest, penalties, and tardy filing fees levied under pars.
12 (a), (ac), (ad), and (af) shall be paid to the department and credited to the
13 ~~administrative account~~ appropriation under s. 20.445 (1) (wd).

14 **SECTION 142.** 108.22 (1m) of the statutes is amended to read:

15 108.22 **(1m)** If any person owes any contributions, reimbursements or
16 assessments under s. 108.15, 108.151, 108.152, 108.155, or 108.19 ~~(1m)~~, benefit
17 overpayments, interest, fees, payments for forfeitures, other penalties, or any other
18 amount to the department under this chapter and fails to pay the amount owed, the
19 department has a perfected lien upon the right, title, and interest in all of the
20 person's real and personal property located in this state in the amount finally
21 determined to be owed, plus costs. Except where creation of a lien is barred or stayed
22 by bankruptcy or other insolvency law, the lien is effective upon the earlier of the date
23 on which the amount is first due or the date on which the department issues a
24 determination of the amount owed under this chapter and shall continue until the
25 amount owed, plus costs and interest to the date of payment, is paid, except as

1 provided in sub. (8) (d). If a lien is initially barred or stayed by bankruptcy or other
2 insolvency law, it shall become effective immediately upon expiration or removal of
3 such bar or stay. The perfected lien does not give the department priority over
4 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges
5 whose interests have been recorded before the department's lien is recorded.

6 **SECTION 143.** 108.22 (8e) of the statutes is amended to read:

7 108.22 (8e) If the department determines a payment has been made to an
8 unintended recipient erroneously without fault on the part of the intended payee or
9 payee's authorized agent, the department may issue the correct payment to the
10 intended payee if necessary, and may recover the amount of the erroneous payment
11 from the recipient under this section or s. 108.225 or 108.245. Any amount so
12 recovered shall be credited to the fund's balancing account.

13 **SECTION 144.** 108.22 (10) of the statutes is amended to read:

14 108.22 (10) A private agency that serves as a fiscal agent under s. 46.2785 or
15 contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.272 (7) (e)
16 or 47.035 as to any individual performing services for a person receiving long-term
17 support services under s. 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286,
18 46.495, 51.42, or 51.437 or personal assistance services under s. 47.02 (6) (c) may be
19 found jointly and severally liable for the amounts owed by the person under this
20 chapter, if, at the time the person's quarterly report is due under this chapter, the
21 private agency served as a fiscal agent for the person. The liability of the agency as
22 provided in this subsection survives dissolution, reorganization, bankruptcy,
23 receivership, assignment for the benefit of creditors, judicially confirmed extension
24 or composition, or any analogous situation of the person and shall be set forth in a
25 determination or decision issued under s. 108.10. An appeal or review of a

1 determination under this subsection shall not include an appeal or review of
2 determinations of amounts owed by the person. This subsection does not apply with
3 respect to a private agency that has made an election under s. 108.065 (3m).

4 **SECTION 145.** 108.223 (2) (b) of the statutes is amended to read:

5 108.223 (2) (b) The department shall enter into agreements with financial
6 institutions doing business in this state to operate the financial record matching
7 program under this section. An agreement shall require the financial institution to
8 participate in the financial record matching program by electing either the financial
9 institution matching option under sub. (3) or the state matching option under sub.
10 (4). The financial institution and the department may by mutual agreement ~~make~~
11 ~~changes to~~ amend the agreement. A financial institution that wishes to choose a
12 different matching option shall provide the department with at least 60 days' notice.
13 The department shall furnish the financial institution with a signed copy of the
14 agreement.

15 **SECTION 146.** 108.23 of the statutes is amended to read:

16 **108.23 Preference of required payments.** In the event of an employer's
17 dissolution, reorganization, bankruptcy, receivership, assignment for benefit of
18 creditors, judicially confirmed extension proposal or composition, or any analogous
19 situation including the administration of estates in circuit courts, the payments
20 required of the employer under this chapter shall have preference over all claims of
21 general creditors and shall be paid next after the payment of preferred claims for
22 wages. If the employer is indebted to the federal government for taxes due under the
23 federal unemployment tax act and a claim for the taxes has been duly filed, the
24 amount of contributions which should be paid to allow the employer the maximum
25 offset against the taxes shall have preference over preferred claims for wages and

1 shall be on a par with debts due the United States, if by establishing the preference
2 the offset against the federal tax can be secured under ~~s. 26 USC 3302 (a) (3) of the~~
3 ~~federal unemployment tax act.~~

4 **SECTION 147.** 108.24 (3) (a) 3. a. of the statutes is amended to read:

5 108.24 (3) (a) 3. a. Refrain from claiming or accepting benefits, participating
6 in an audit or investigation by the department, or testifying in a hearing held under
7 s. 108.09, 108.095, or 108.10.

8 **SECTION 148.** 108.24 (3) (a) 4. of the statutes is amended to read:

9 108.24 (3) (a) 4. Discriminates or retaliates against an individual because the
10 individual claims benefits, participates in an audit or investigation by the
11 department under this chapter, testifies in a hearing under s. 108.09, 108.095, or
12 108.10, or exercises any other right under this chapter.

13 **SECTION 149. Fiscal changes.**

14 (1) The unencumbered balance in the appropriation account under s. 20.445 (1)
15 (gg), 2019 stats., immediately before the effective date of the repeal of s. 20.445 (1)
16 (gg), 2019 stats., and the unencumbered balance in the appropriation account under
17 s. 20.445 (1) (gm), 2019 stats., immediately before the effective date of the repeal of
18 s. 20.445 (1) (gm), 2019 stats., are transferred to the appropriation account under s.
19 20.445 (1) (wd), as affected by this act.

20 (2) (a) The unencumbered balance in the appropriation account under s. 20.445
21 (1) (gc) is transferred to the appropriation account under s. 20.445 (1) (wc).

22 (b) The unencumbered balance in the appropriation account under s. 20.445 (1)
23 (gd) is transferred to the appropriation account under s. 20.445 (1) (wd).

24 (c) The unencumbered balance in the appropriation account under s. 20.445 (1)
25 (gh) is transferred to the appropriation account under s. 20.445 (1) (wh).

