



## Unemployment Insurance Advisory Council

### Meeting Agenda

January 16, 2025, 10 a.m. – 4 p.m.

**The public may attend by teleconference.**

Phone: 415-655-0003 or 855-282-6330 (toll free) or [WebEx](#)  
Meeting number (access code): 26648803161 Password: DWD1

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

1. Call to order and introductions
2. Approval of minutes of the October 8, 2024 UIAC meeting
3. Department update
4. Quarterly report on UI information technology systems ([7/1/2024-9/30/2024](#))
5. Trust Fund update – Shashank Partha
6. Judicial update
  - *Catholic Charities v. LIRC*
7. UI Public Hearing Review
8. Labor and Management proposals to amend the unemployment insurance law
9. Research requests
10. Future meeting dates: February 20, March 20, April 17, May 15, June 19
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 members may attend the meeting by teleconference or videoconference.
- ❖ 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 8, 2024

**Held In-Person and Via Teleconference**

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

**Members:** Janell Knutson (Chair), Sally Feistel, Corey Gall, Shane Griesbach, David Bohl, Mike Gotzler, Scott Manley, and Susan Quam.

**Department Staff:** Jim Chiolino (UI Division Administrator), Jason Schunk (UI Deputy Division Administrator), Andy Rubsam, Mike Myszewski, Tim Zuberbier, Shashank Partha, Linda Hendrickson, Jeff Laesch, Pam Neumann, Robert Usarek, Ashley Gruttke, Joe Brockman, Jennifer Wakerhauser (General Counsel), and Caitlin Madden (Deputy Legal Counsel).

**Members of the Public:** Victor Forberger (Attorney, Wisconsin UI Clinic)

### 1. Call to Order and Introductions

Ms. Knutson called the Unemployment Insurance Advisory Council to order at 10:02 a.m. under the Wisconsin Open Meetings Law. Attendees introduced themselves in turn, and Ms. Knutson acknowledged the department staff in attendance.

### 2. Approval of Minutes of the June 13, 2024, UIAC Meeting

Motion by Mr. Manley, second by Ms. Feistel, to approve the minutes of the June 13, 2024, meeting without correction. Vote was taken by voice vote and passed unanimously.

### 3. Department Updates

Mr. Chiolino provided a department update. He advised employer rate notices are being sent with the employer newsletter. The newsletter is also available on the website. The newsletter states we are staying in the lowest rate schedule (Schedule D) because of the June 30, 2024 balance of the UI Trust Fund.

### 4. Correspondence

Ms. Knutson reported there was one item of correspondence in members' packets. Demetrius Nelson emailed concerning suggested statute and administrative rule changes regarding teacher eligibility for UI benefits during the summer months.

Ms. Knutson responded to Mr. Nelson's inquiry stating that the Council would receive a copy of the letter and that the letter will be included as part of public comments for the public hearing this fall. Ms. Knutson stated the Council can discuss the matter after the public hearing.

## **5. Quarterly Report on UI Information Technology Systems (4/1/24 – 6/30/24)**

Ms. Knutson stated that the report for the second quarter of 2024 is in members' packets.

## **6. Trust Fund Update**

Mr. Partha reported the Trust Fund highlights based on the August 31, 2024 Financial Statements, which are in members' packets. Benefit payments through August 2024 increased by \$30 million or 12.6% (when compared to last year). Tax receipts through August 2024 declined by \$9 million or 1.9% (when compared to last year). The UI Trust Fund balance was above \$1.8 billion, which is an increase of 15.9% (when compared to last year). Interest earned on the Trust Fund (received quarterly) was \$23.5 million, compared to \$13 million for the same period last year.

Mr. Partha advised the UI Trust Fund balance as of June 30 (which was part of the June Financial Statements) was just under \$1.8 billion, which meets the threshold (greater than \$1.2 billion) for Schedule D to remain in effect for the next calendar year. He explained we will remain in Schedule D for 2025. Mr. Partha reported that the department has started printing the employer rate notices, which will be mailed in October.

## **7. Program Integrity Assessment**

Ms. Knutson advised a letter from Secretary Pechacek can be found in members' packets. Ms. Knutson summarized the content of the letter in which the Secretary recommended the Council authorize the 0.01% program integrity assessment to be invested in the Program Integrity Fund. The letter cites the total amount generated by the assessment, the UI Trust Fund Balance, the department's coordinated anti-fraud efforts, and national increase in attempts to defraud the UI system from sophisticated international groups, as reasons in support of continuing program integrity efforts.

Motion by Mr. Gotzler, second by Mr. Manley, to invest the 0.01% program integrity assessment towards the Program Integrity Fund. The motion passed unanimously by voice vote.

## **8. Judicial Updates: Catholic Charities v. LIRC and Bevco v. LIRC**

Mr. Rubsam summarized the status of *Catholic Charities v. LIRC* and the *Bevco v. LIRC* case.

Mr. Rubsam explained that the *Catholic Charities v. LIRC* case resulted in a ruling by the Wisconsin Supreme Court that the nonprofits affiliated with the Catholic Diocese of Superior should continue to remain subject to the UI law. The employers have appealed that decision to the U.S. Supreme Court. The department and LIRC will file a response to that appeal in the next month or two. Mr. Rubsam advised the department will update the Council if the U.S. Supreme Court accepts the case.

Mr. Rubsam outlined the *Bevco v. LIRC* case, which is a Wisconsin Court of Appeals case in District 2 involving an attendance issue. The employee was terminated for absences under the employer's attendance policy. The employee then filed a UI claim. LIRC allowed UI benefits because the attendance violations were not due to misconduct or substantial fault. The employer then appealed to

the Circuit Court, which found misconduct under Wis. Stat. § 108.04(5)(e) and that it would be substantial fault even if misconduct had not been found. The department and LIRC then appealed to the Wisconsin Court of Appeals, which affirmed the Circuit Court, finding misconduct under sub. (5)(e). The department and LIRC then appealed to the Wisconsin Supreme Court and are waiting to hear if the Wisconsin Supreme Court will accept the case. The department will update the Council whether the Wisconsin Supreme Court chooses or declines to hear the case.

Mr. Rubsam explained the decision is a published Court of Appeals decision, so it is binding statewide. Until now, the department and LIRC have analyzed the reason for each attendance violation under common law before finding misconduct. The Court of Appeals decision provides that misconduct should be found regardless of the reasons for the attendance violations if the employer has an attendance policy that the employee acknowledged with their signature.

## **9. Research Requests**

Ms. Knutson stated there were no research requests.

## **10. Future Meeting Dates**

Ms. Knutson stated that the scheduled future meeting dates are:

- November 21, 2024 (Public Hearing)
- January 16, 2025

Ms. Knutson explained that the public hearing is held in November each even-numbered year and there is typically no Council meeting that month. Ms. Knutson provided details of the public hearing, which can be found on the department's website, including being held virtually in two sessions – from 2:00 p.m. to 4:00 p.m. and then 5:00 p.m. to 6:00 p.m., and that Council members are encouraged to join if they are able. Ms. Knutson advised members will be provided calendar invitations and the poster with details for the hearing.

Ms. Knutson stated the Council typically does not meet in December in anticipation of the upcoming agreed bill cycle.

Mr. Griesbach requested that Council meetings continue to be held the third Thursday of the month. Ms. Knutson confirmed the department will try to move forward with in-person meetings on those dates, with the option for virtual attendance as needed.

## **11. Adjourn**

Motion by Mr. Manley, second by Mr. Griesbach, to adjourn. Vote was taken by voice vote and passed unanimously.

The Council adjourned at 10:21 a.m.



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# 2024

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# YEAR



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# State of Wisconsin

Date: Oct. 31, 2024

To: Members of the Joint Committee on Finance and Joint Committee on Information Policy and Technology

From: Department of Administration Secretary-designee Kathy Blumenfeld 

From: Department of Workforce Development Secretary-designee Amy Pechacek 

**Subject:** 2021 Wisconsin Act 4 Quarterly Report – Third Quarter 2024

Pursuant to 2021 Wisconsin Act 4, under Wis. Stat. s. 108.14(27)(e), this report serves to update you on the progress the Department of Workforce Development (DWD) has made on its project to improve the information technology (IT) systems used for processing and paying claims for unemployment insurance (UI) benefits from July 1 to Sept. 30, 2024. We are pleased to share in this report that DWD has continued to make good progress in its UI modernization efforts.

## **Unemployment Insurance System Modernization**

The Unemployment Insurance (UI) Modernization project is the effort to modernize UI IT systems from a COBOL-based mainframe system to a cloud-based flexible system able to nimbly adapt to changes in the demands on the agency and changes in UI program requirements. The goal of this project is to create a more modern, maintainable, sustainable, and adaptable system to meet current and evolving UI needs. Over time, the project will entirely replace the existing, antiquated mainframe, which is difficult to reprogram to meet changes in state or federal policy and to retain staffing resources knowledgeable in COBOL programming.

The future UI system will provide end-to-end services to DWD customers (claimants and employers) in a timely manner. DWD staff will be able to administer programs inclusively and efficiently with modern online tools.

## **Employer Portal**

The goal of this modernization project is to create a state-of-the-art, web-based and mobile solution that modernizes the current employer portal with added functionality to improve communication between DWD and its customers for tax and wage reporting, employer information and support, claims verification questions, and appeal activities. The features in the new employer portal will include secure messaging and document sharing, online form requests, detailed claims tracking/due dates, and enhanced account access capabilities. These modern features will help Wisconsin employers maintain efficiency and flexibility, in a user-friendly format.

During this quarter, DWD and its vendor began the design and development for core components of the modern employer portal. Initial development work focused on the following efforts:

- Establishing foundational system configurations, baseline security, and infrastructure to support both the short- and long-term needs of the development team and the end goal of the system.



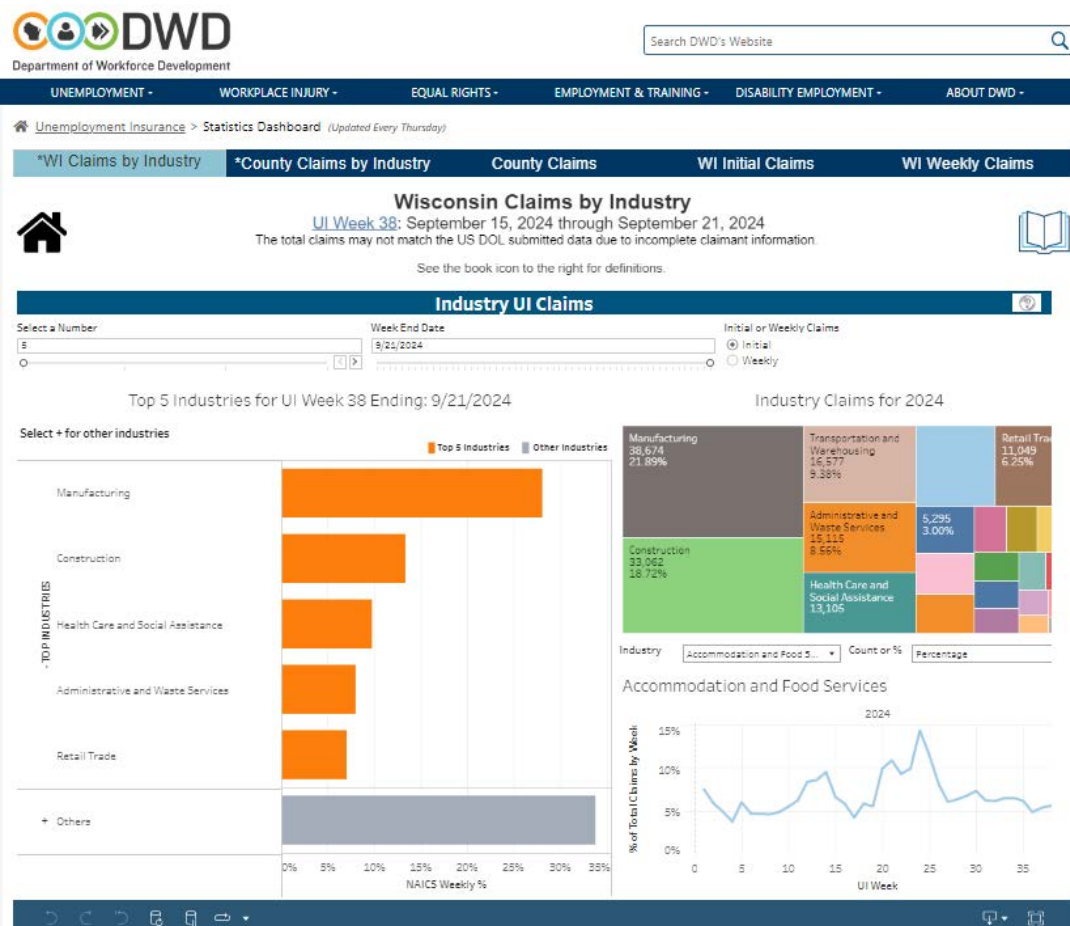
The foundational components must be scalable and adaptable to the increasing complexity of the developing system.

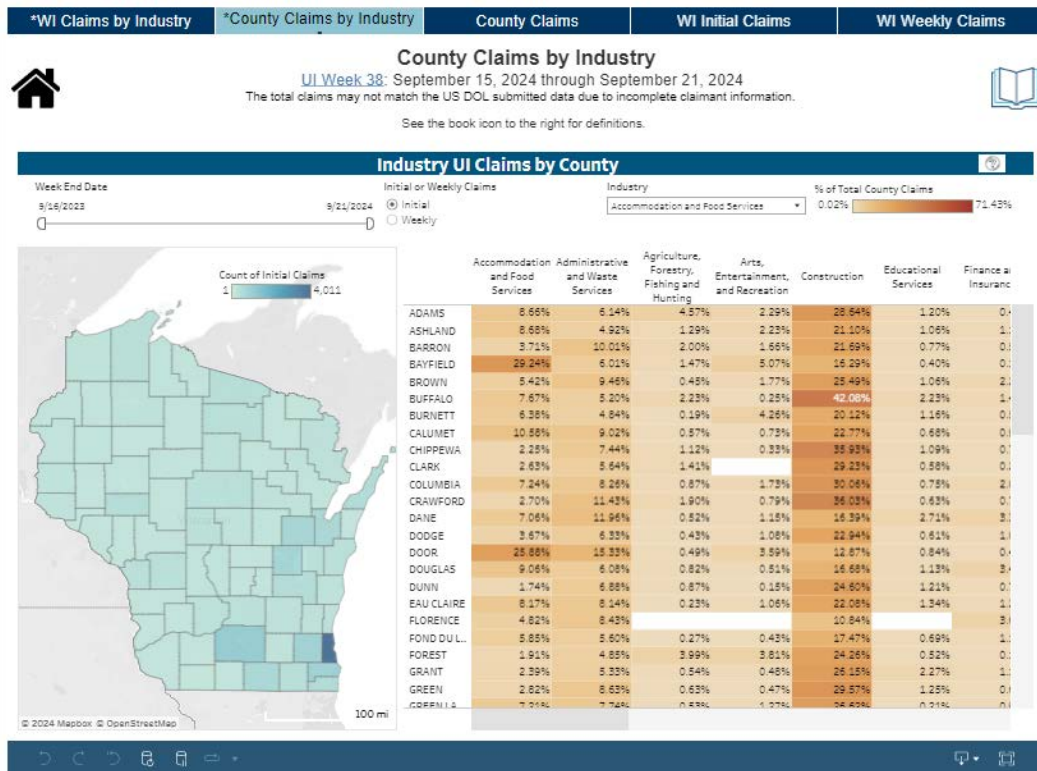
- Establishing the interface connection points between the new portal and the existing sources of information. This is critical groundwork for the integration of the employer portal with the other UI IT systems to ensure employers have access to timely and accurate information.
- Updating the look and feel of the file upload process and the employer registration process, including the addition of dynamic fields to provide employers better access to relevant information and minimize the need for follow-up requests.
- Working on the operational framework to help contextualize individual components for development of the larger UI IT system, ensuring all interactions and product requirements are accounted for.
- Refining and delivering the project roadmap to meet the needs of the end users (employers) of the system. The roadmap takes into consideration mandatory reporting timelines and overall customer service.

### Data on Claims by Industry Dashboard

Initially [released in May 2022](#) and [expanded in April 2024](#), the UI statistics dashboard provides useful information on UI claims statewide and by county, benefit payments, adjudication issues, appeals, and help center call metrics. This dashboard has been further enhanced to include interactive displays of UI claims by industry based on the North American Industry Classification System (NAICS) code associated with a claimant's separating employer. Statewide UI claims by industry data can also be filtered by one or multiple counties.

To access the new claims by industry dashboards, visit the [UI Statistics](#) page. Provided below are screenshots of the statewide claims by industry and county claims by industry displays.





### Integration with Governmental Liaison Data Exchange Program

In an effort to reduce manual intervention through all of the unemployment insurance process, DWD has implemented an integration with the Governmental Liaison Data Exchange Program to replace manual review of federal data shared with UI. This improvement aids compliance with strict federal requirements in a timely manner and ensures compliance with certain collections. For example, this integration will stop collections from individuals serving in active duty, which is one requirement of the Servicemembers' Civil Relief Act.

### COBOL-based UI System Replacement

DWD launched its comprehensive overhaul of the outdated COBOL-based UI system in September 2021 through a contract with Madison-based Flexion, which concluded in early July 2024. With Flexion, DWD established a secure cloud infrastructure, implemented additional security protocols, identified dependencies within the mainframe to avoid customer disruptions, and developed a benefits calculation engine that accounts for many of the complex rules associated with Wisconsin's UI eligibility requirements.

The department is now moving toward the build-out, integration, testing, and deployment of a fully modern UI system with Google Public Sector. Whereas the work with Flexion focused on monetaries on the benefits side, the discovery with GPS entails all aspects of the UI IT system: benefits payments, employer portal, adjudication and appeals, tax and wage reporting, quality assurance, and correspondence. DWD will take advantage of rapidly evolving technology to accelerate development of code and deliver performance features that continue Wisconsin's leadership in UI customer service.

The team has spent the third quarter in discovery to identify the full scope of work. Next steps include completing the comprehensive review of all requirements and establishing a roadmap and plan to continue the progress of the modernization efforts.

We hope you find this information helpful. We will provide the next quarterly update on the UI modernization project to you in January 2025. In the meantime, please do not hesitate to contact us with questions.

## UI Reserve Fund Highlights

**January 16, 2025**

- Benefit payments through November 2024 increased by \$39.7 million or 13.6% when compared to benefits paid through November 2023.

<b>Benefits Paid</b>	<b>2024 YTD*</b> <i>(in millions)</i>	<b>2023 YTD*</b> <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Total Regular UI Paid	\$332.0	\$292.3	\$39.7	13.6%

- Tax receipts through November 2024 declined by \$6.3 million or 1.1% when compared to tax receipts through November 2023.

<b>Tax Receipts</b>	<b>2024 YTD*</b> <i>(in millions)</i>	<b>2023 YTD*</b> <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Total Tax Receipts	\$553.7	\$560.0	(\$6.3)	(1.1%)

- The November 2024 Trust Fund ending balance was just under \$1.9 billion, an increase of 15.3% when compared to the same time last year.

<b>UI Trust Fund Balance</b>	November 2024 <i>(in millions)</i>	November 2023 <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Trust Fund Balance	\$1,880.0	\$1,630.1	\$249.9	15.3%

- Interest earned on the Trust Fund is received quarterly. Interest for the first three quarters of 2024 was \$38 million compared to \$23.8 million for the same period last year.

<b>UI Trust Fund Interest</b>	<b>2024 YTD*</b> <i>(in millions)</i>	<b>2023 YTD*</b> <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Total Interest Earned	\$38.0	\$23.8	\$14.2	59.7%

\*All calendar year-to-date (YTD) numbers are based on the November 30, 2024 Financial Statements.

# FINANCIAL STATEMENTS

For the Month Ended November 30, 2024



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, 2024

<u>ASSETS</u>	<u>CURRENT YEAR</u>	<u>PRIOR YEAR</u>
<b>CASH:</b>		
U.I. CONTRIBUTION ACCOUNT	158,139.82	210,210.75
U.I. BENEFIT ACCOUNTS	(55,699.77)	(197,233.43)
U.I. TRUST FUND ACCOUNTS (1) (2) (3)	<u>1,929,817,633.63</u>	<u>1,683,006,920.91</u>
TOTAL CASH	1,929,920,073.68	1,683,019,898.23
<b>ACCOUNTS RECEIVABLE:</b>		
BENEFIT OVERPAYMENT RECEIVABLES	175,486,613.18	194,203,114.65
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(57,117,432.90)</u>	<u>(62,106,233.12)</u>
NET BENEFIT OVERPAYMENT RECEIVABLES	118,369,180.28	132,096,881.53
TAXABLE EMPLOYER RFB & SOLVENCY RECEIV (5) (6)	33,856,536.86	34,721,097.23
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(21,824,223.42)</u>	<u>(16,496,361.29)</u>
NET TAXABLE EMPLOYER RFB & SOLVENCY RECEIV	12,032,313.44	18,224,735.94
OTHER EMPLOYER RECEIVABLES	22,516,752.76	24,132,631.87
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS	<u>(9,427,891.97)</u>	<u>(8,096,663.21)</u>
NET OTHER EMPLOYER RECEIVABLES	13,088,860.79	16,035,968.66
TOTAL ACCOUNTS RECEIVABLE	<u>143,490,354.51</u>	<u>166,357,586.13</u>
TOTAL ASSETS	<u><u>2,073,410,428.19</u></u>	<u><u>1,849,377,484.36</u></u>
<b><u>LIABILITIES AND EQUITY</u></b>		
<b>LIABILITIES:</b>		
CONTINGENT LIABILITIES (7)	94,528,653.02	109,378,172.85
OTHER LIABILITIES	36,643,438.79	40,736,168.15
FEDERAL BENEFIT PROGRAMS	1,848,208.64	870,590.93
CHILD SUPPORT HOLDING ACCOUNT	11,519.00	8,749.00
FEDERAL WITHHOLDING TAXES DUE	(11,851.00)	(9,687.00)
STATE WITHHOLDING TAXES DUE	1,228,678.47	1,014,654.30
DUE TO OTHER GOVERNMENTS (8)	<u>507,970.61</u>	<u>539,046.76</u>
TOTAL LIABILITIES	134,756,617.53	152,537,694.99
<b>EQUITY:</b>		
RESERVE FUND BALANCE	2,960,956,580.54	2,861,880,790.07
BALANCING ACCOUNT	<u>(1,022,302,769.88)</u>	<u>(1,165,041,000.70)</u>
TOTAL EQUITY	<u>1,938,653,810.66</u>	<u>1,696,839,789.37</u>
TOTAL LIABILITIES AND EQUITY	<u><u>2,073,410,428.19</u></u>	<u><u>1,849,377,484.36</u></u>

1. \$284,585 of this balance is for administration purposes and is not available to pay benefits.
2. \$1,331,243 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.
3. \$11,933,868 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 50.3%. This is based on the historical collectibility of our receivables. This method of recognizing receivable balances is in accordance with generally accepted accounting principles.
5. The remaining tax due at the end of the current month for employers utilizing the 1st quarter deferral plan is \$174,029. Deferrals for the prior year were \$175,883.
6. \$20,567,063, or 60.7%, of this balance is estimated.
7. \$75,029,323 of this balance is net benefit overpayments which, when collected, will be credited to a reimbursable or federal program. \$19,499,330 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 \$664. The 11/30/2024 balance of the Unemployment Interest Payment Fund (DWD Fund 214) is \$1,960. Total Life-to-date transfers from DWD Fund 214 to the Unemployment Program Integrity Fund (DWD Fund 298) are \$9,605,130.

DEPARTMENT OF WORKFORCE DEVELOPMENT  
U.I. TREASURER'S REPORT  
RESERVE FUND ANALYSIS  
FOR THE MONTH ENDED November 30, 2024

	<u>CURRENT ACTIVITY</u>	<u>YTD ACTIVITY</u>	<u>PRIOR YTD</u>
BALANCE AT BEGINNING OF MONTH/YEAR:			
U.I. TAXABLE ACCOUNTS	3,427,879,742.31	3,290,285,224.79	3,152,504,720.62
BALANCING ACCOUNT	<u>(1,474,362,723.54)</u>	<u>(1,608,925,132.26)</u>	<u>(1,792,807,841.51)</u>
TOTAL BALANCE	1,953,517,018.77	1,681,360,092.53	1,359,696,879.11
<b>INCREASES:</b>			
TAX RECEIPTS/RFB PAID	2,605,333.85	397,480,588.81	402,016,446.09
ACCRUED REVENUES	3,255,418.29	524,421.63	4,925,003.26
SOLVENCY PAID	301,725.54	156,237,898.04	157,948,673.10
FORFEITURES	(906.00)	769.00	171.13
BENEFIT CONCEALMENT INCOME	79,455.98	1,555,190.78	2,094,859.72
2021 WI ACT 58 TRANSFERS TO TRUST FUND	0.00	0.00	60,000,000.00
INTEREST EARNED ON TRUST FUND	0.00	37,955,112.08	23,763,566.78
FUTA TAX CREDITS	0.00	(3,137.30)	0.00
OTHER CHANGES	43,902.84	467,252.69	466,745.17
TOTAL INCREASES	<u>6,284,930.50</u>	<u>594,218,095.73</u>	<u>651,215,465.25</u>
<b>DECREASES:</b>			
TAXABLE EMPLOYER DISBURSEMENTS	17,689,956.04	281,299,277.07	243,274,171.10
QUIT NONCHARGE BENEFITS	2,385,347.77	36,565,234.76	36,900,180.36
OTHER DECREASES	225,873.64	6,363,084.28	22,841,915.88
OTHER NONCHARGE BENEFITS	846,961.16	12,696,781.49	11,056,287.65
TOTAL DECREASES	<u>21,148,138.61</u>	<u>336,924,377.60</u>	<u>314,072,554.99</u>
BALANCE AT END OF MONTH/YEAR:			
RESERVE FUND BALANCE	2,960,956,580.54	2,960,956,580.54	2,861,880,790.07
BALANCING ACCOUNT	<u>(1,022,302,769.88)</u>	<u>(1,022,302,769.88)</u>	<u>(1,165,041,000.70)</u>
TOTAL BALANCE (9) (10) (11) (12)	<u><u>1,938,653,810.66</u></u>	<u><u>1,938,653,810.66</u></u>	<u><u>1,696,839,789.37</u></u>

9. This balance differs from the cash balance related to taxable employers of \$1,892,230,758 because of non-cash accrual items.

10. \$284,585 of this balance is set up in the Trust Fund in one subaccount to be used for administration purposes and is not available to pay benefits.

11. \$1,331,243 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

12. \$11,933,868 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 11/30/2024**

<b>RECEIPTS</b>	<b>CURRENT ACTIVITY</b>	<b>YEAR TO DATE</b>	<b>PRIOR YEAR TO DATE</b>
TAX RECEIPTS/RFB	\$2,605,333.85	\$397,480,588.81	\$402,016,446.09
SOLVENCY	301,725.54	156,237,898.04	157,948,673.10
ADMINISTRATIVE FEE	5.78	285.87	259.77
ADMINISTRATIVE FEE - PROGRAM INTEGRITY	6,935.35	3,603,738.84	3,594,512.53
UNUSED CREDITS	(196,746.09)	11,175,719.22	5,353,314.71
GOVERNMENTAL UNITS	566,859.98	7,837,785.56	7,657,683.59
NONPROFITS	841,621.53	9,692,487.19	7,531,971.93
INTERSTATE CLAIMS (CWC)	94,246.13	3,558,014.96	3,590,819.42
ERROR SUSPENSE	(33,641.13)	7,717.03	5,881.23
FEDERAL PROGRAMS RECEIPTS	(835,805.10)	(10,079,530.22)	(14,278,069.53)
OVERPAYMENT COLLECTIONS	1,919,844.15	25,594,977.48	29,932,595.05
FORFEITURES	(906.00)	769.00	171.13
BENEFIT CONCEALMENT INCOME	79,455.98	1,555,190.78	2,094,859.72
EMPLOYER REFUNDS	(1,809,191.69)	(15,269,259.76)	(16,423,575.61)
COURT COSTS	36,846.78	594,135.38	585,000.65
INTEREST & PENALTY	313,956.73	4,358,577.20	3,386,026.48
CARD PAYMENT SERVICE FEE	2,795.11	45,340.28	43,553.93
BENEFIT CONCEALMENT PENALTY-PROGRAM INTEGRITY	127,247.46	2,636,494.57	3,175,678.31
MISCLASSIFIED EMPLOYEE PENALTY-PROG INTEGRITY	0.00	20,589.77	52,918.42
LEVY NONCOMPLIANCE PENALTY-PROGRAM INTEGRITY	1,097.40	46,727.34	38,099.32
SPECIAL ASSESSMENT FOR INTEREST	200.00	9,128.25	17,327.81
2021 WI ACT 58 TRANSFERS TO TRUST FUND	0.00	0.00	60,000,000.00
INTEREST EARNED ON U.I. TRUST FUND BALANCE	0.00	37,955,112.08	23,763,566.78
MISCELLANEOUS	28,402.07	126,333.12	165,079.54
<b>TOTAL RECEIPTS</b>	<b>\$4,050,283.83</b>	<b>\$637,188,820.79</b>	<b>\$680,252,794.37</b>
<b>DISBURSEMENTS</b>			
CHARGES TO TAXABLE EMPLOYERS	\$19,125,517.55	\$304,464,577.90	\$270,571,349.65
NONPROFIT CLAIMANTS	744,146.58	9,369,186.45	7,348,220.90
GOVERNMENTAL CLAIMANTS	593,583.83	7,749,173.37	7,102,310.87
INTERSTATE CLAIMS (CWC)	193,167.30	3,193,237.03	3,306,699.27
QUITS	2,385,347.77	36,565,234.76	36,900,180.36
OTHER NON-CHARGE BENEFITS	1,049,104.61	13,370,942.90	11,427,815.72
CLOSED EMPLOYERS	(6,909.16)	(8,762.22)	(23,476.81)
FEDERAL PROGRAMS			
FEDERAL EMPLOYEES (UCFE)	77,395.73	812,129.01	1,009,401.04
EX-MILITARY (UCX)	22,164.92	220,694.75	183,691.60
TRADE ALLOWANCE (TRA/TRA-NAFTA)	3,170.00	85,683.53	441,754.18
WORK-SHARE (STC)	(4.53)	(8,501.66)	(2,490,933.81)
FEDERAL PANDEMIC UC (FPUC)	(357,151.82)	(7,709,500.04)	(8,136,222.98)
LOST WAGES ASSISTANCE \$300 ADD-ON (LWA)	(26,397.72)	(470,075.68)	(593,636.06)
MIXED EARNERS UC (MEUC)	0.00	(200.00)	1,500.00
PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA)	(58,992.12)	(1,255,824.71)	(1,327,619.07)
PANDEMIC EMERGENCY UC (PEUC)	(98,795.56)	(1,567,043.97)	(1,827,404.65)
PANDEMIC FIRST WEEK (PFW)	(1,709.33)	(34,793.33)	57,280.33
EMER UC RELIEF REIMB EMPL (EUR)	(12,858.00)	(203,777.40)	(161,398.91)
2003 TEMPORARY EMERGENCY UI (TEUC)	(156.65)	(3,836.22)	(7,856.39)
FEDERAL ADD'L COMPENSATION \$25 ADD-ON (FAC)	(5,786.89)	(102,918.93)	(121,268.75)
FEDERAL EMERGENCY UI (EUC)	(51,557.16)	(849,929.68)	(1,087,015.22)
FEDERAL EXTENDED BENEFITS (EB)	(15,802.75)	(85,789.27)	(94,475.33)
FEDERAL EMPLOYEES EXTENDED BEN (UCFE EB)	0.00	(3,025.00)	(275.00)
FEDERAL EX-MILITARY EXTENDED BEN (UCX EB)	0.00	(349.08)	(2,244.53)
INTERSTATE CLAIMS EXTENDED BENEFITS (CWC EB)	(105.71)	(335.10)	(3,522.15)
INTEREST & PENALTY	1,006,854.62	4,297,849.39	3,464,501.71
CARD PAYMENT SERVICE FEE TRANSFER	4,980.31	46,261.87	42,514.53
PROGRAM INTEGRITY	631,134.08	6,357,228.29	6,900,141.44
SPECIAL ASSESSMENT FOR INTEREST	0.00	14,539.13	17,089.45
COURT COSTS	65,760.74	596,602.76	597,206.17
ADMINISTRATIVE FEE TRANSFER	54.96	293.90	312.05
LOST WAGES ASSISTANCE (LWA) ADMIN TRANSFER	0.00	0.00	0.00
FEDERAL WITHHOLDING	(1,769.00)	(7,258.00)	10,001.18
STATE WITHHOLDING	(584,771.47)	535,477.70	451,819.26
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	0.00	18,914,772.00
FEDERAL LOAN REPAYMENTS	0.00	3,137.30	0.00
<b>TOTAL DISBURSEMENTS</b>	<b>\$24,679,615.13</b>	<b>\$375,370,329.75</b>	<b>\$352,871,212.05</b>
<b>NET INCREASE(DECREASE)</b>	<b>(20,629,331.30)</b>	<b>261,818,491.04</b>	<b>327,381,582.32</b>
BALANCE AT BEGINNING OF MONTH/YEAR	\$1,950,549,404.98	\$1,668,101,582.64	\$1,355,638,315.91
BALANCE AT END OF MONTH/YEAR	<b>\$1,929,920,073.68</b>	<b>\$1,929,920,073.68</b>	<b>\$1,683,019,898.23</b>

DEPARTMENT OF WORKFORCE DEVELOPMENT  
U.I. TREASURER'S REPORT  
CASH ANALYSIS  
FOR THE MONTH ENDED November 30, 2024

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BEGINNING U.I. CASH BALANCE	\$1,909,839,655.63	\$1,627,466,340.60	\$1,303,839,732.39
INCREASES:			
TAX RECEIPTS/RFB PAID	2,605,333.85	397,480,588.81	402,016,446.09
U.I. PAYMENTS CREDITED TO SURPLUS	933,907.44	161,108,044.44	163,533,491.62
2021 WI ACT 58 TRANSFERS TO TRUST FUND	0.00	0.00	60,000,000.00
INTEREST EARNED ON TRUST FUND	0.00	37,955,112.08	23,763,566.78
FUTA TAX CREDITS	0.00	(3,137.30)	0.00
TOTAL INCREASE IN CASH	<u>3,539,241.29</u>	<u>596,540,608.03</u>	<u>649,313,504.49</u>
TOTAL CASH AVAILABLE	<u>1,913,378,896.92</u>	<u>2,224,006,948.63</u>	<u>1,953,153,236.88</u>
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	17,689,956.04	281,299,277.07	243,274,171.10
BENEFITS CHARGED TO SURPLUS	<u>3,471,040.57</u>	<u>50,680,690.65</u>	<u>49,045,947.84</u>
TOTAL BENEFITS PAID DURING PERIOD	21,160,996.61	331,979,967.72	292,320,118.94
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	0.00	18,914,772.00
EMER UC RELIEF REIMB EMPL EXPENDITURES	<u>(12,858.00)</u>	<u>(203,777.40)</u>	<u>(161,398.91)</u>
ENDING U.I. CASH BALANCE (13) (14) (15)	<u><u>1,892,230,758.31</u></u>	<u><u>1,892,230,758.31</u></u>	<u><u>1,642,079,744.85</u></u>

13. \$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.

14. \$1,331,243 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

15. \$11,933,868 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.

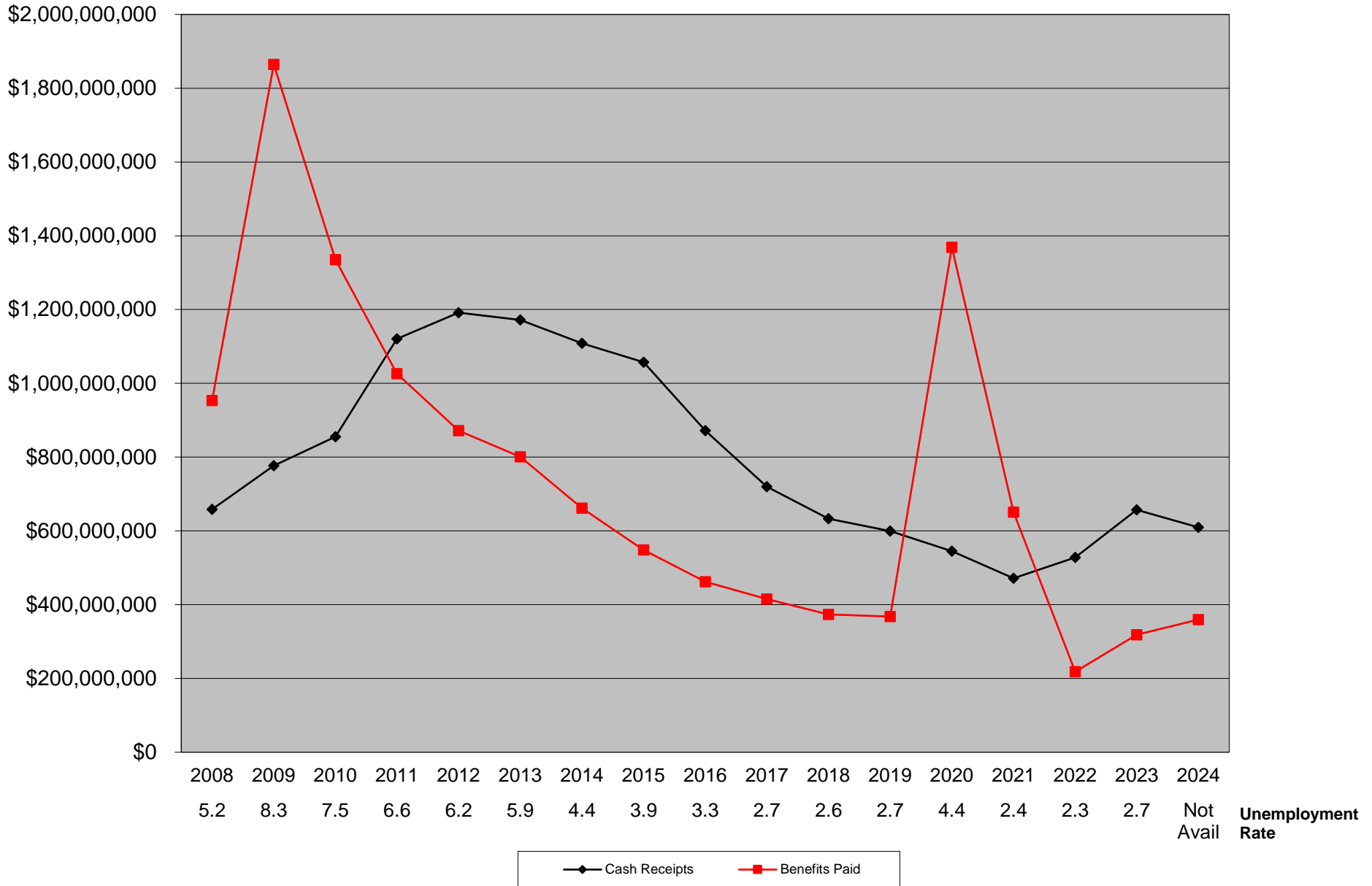


BUREAU OF TAX AND ACCOUNTING  
U.I. TREASURER'S REPORT  
BALANCING ACCT SUMMARY  
FOR THE MONTH ENDED November 30, 2024

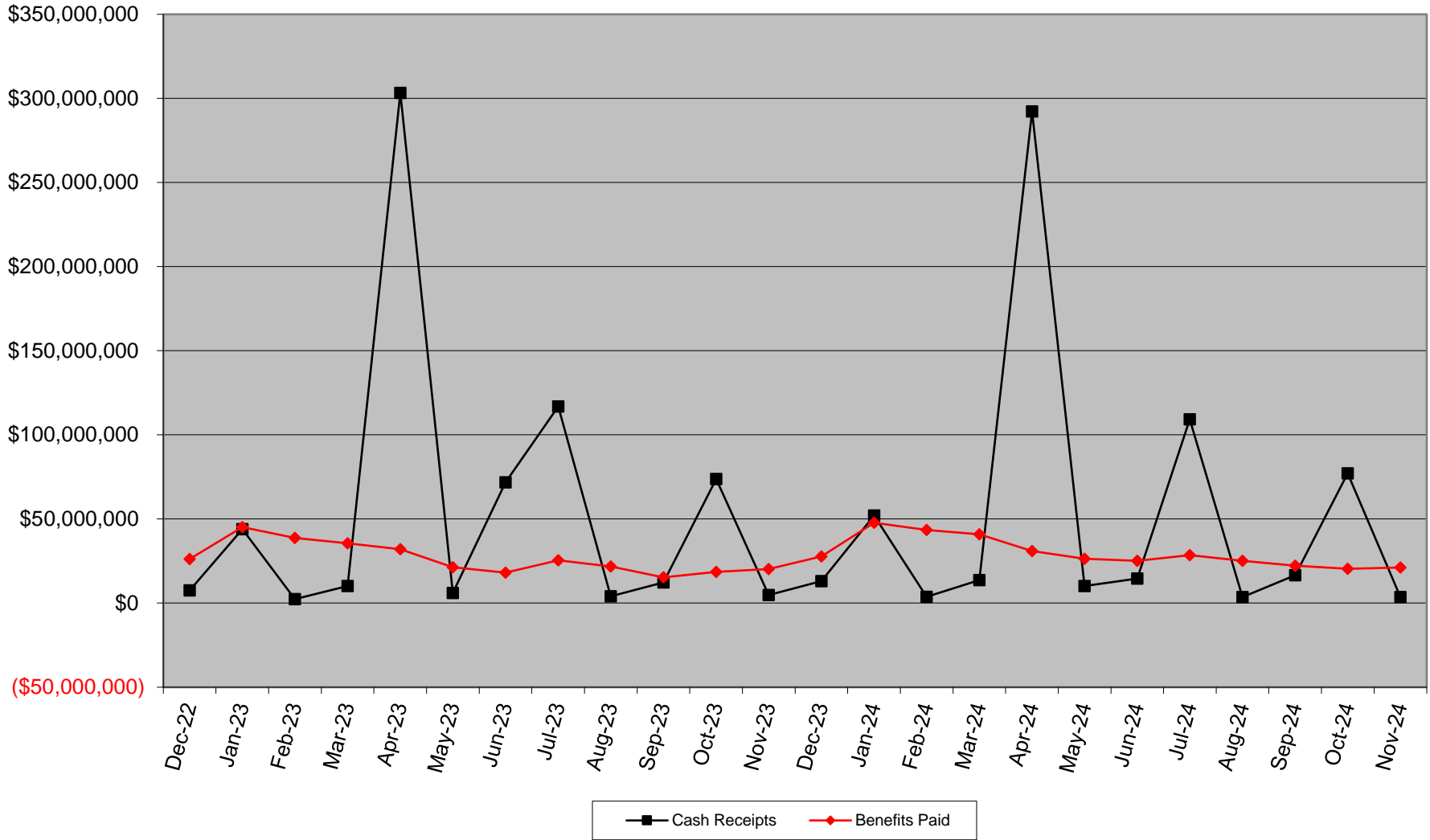
	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BALANCE AT THE BEGINNING OF THE MONTH/YEAR	(\$1,066,201,428.54)	(\$1,209,257,177.64)	(\$1,399,163,452.19)
INCREASES:			
U.I. PAYMENTS CREDITED TO SURPLUS:			
SOLVENCY PAID	301,725.54	156,237,898.04	157,948,673.10
FORFEITURES	(906.00)	769.00	171.13
OTHER INCREASES	633,087.90	4,869,377.40	5,584,647.39
U.I. PAYMENTS CREDITED TO SURPLUS SUBTOTAL	<u>933,907.44</u>	<u>161,108,044.44</u>	<u>163,533,491.62</u>
TRANSFERS BETWEEN SURPLUS ACCTS (16)	(118.56)	(8,051,750.56)	(135,330.50)
2021 WI ACT 58 TRANSFERS TO TRUST FUND	0.00	0.00	60,000,000.00
INTEREST EARNED ON TRUST FUND	0.00	37,955,112.08	23,763,566.78
FUTA TAX CREDITS	0.00	(3,137.30)	0.00
TOTAL INCREASES	<u>933,788.88</u>	<u>191,008,268.66</u>	<u>247,161,727.90</u>
DECREASES:			
BENEFITS CHARGED TO SURPLUS:			
QUITS	2,385,347.77	36,565,234.76	36,900,180.36
OTHER NON-CHARGE BENEFITS	1,085,692.80	14,115,453.89	12,145,767.48
MISCELLANEOUS EXPENSE	0.00	2.00	0.00
BENEFITS CHARGED TO SURPLUS SUBTOTAL	<u>3,471,040.57</u>	<u>50,680,690.65</u>	<u>49,045,947.84</u>
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	0.00	18,914,772.00
EMER UC RELIEF REIMB EMPL EXPENDITURES	(12,858.00)	(203,777.40)	(161,398.91)
BALANCE AT THE END OF THE MONTH/YEAR	<u>(1,068,725,822.23)</u>	<u>(1,068,725,822.23)</u>	<u>(1,219,801,045.22)</u>

16. The 10% writeoff for 2024 was \$37.5 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.

## Cash Activity Related to Taxable Employers with WI Unemployment Rate (for all years from December to November)

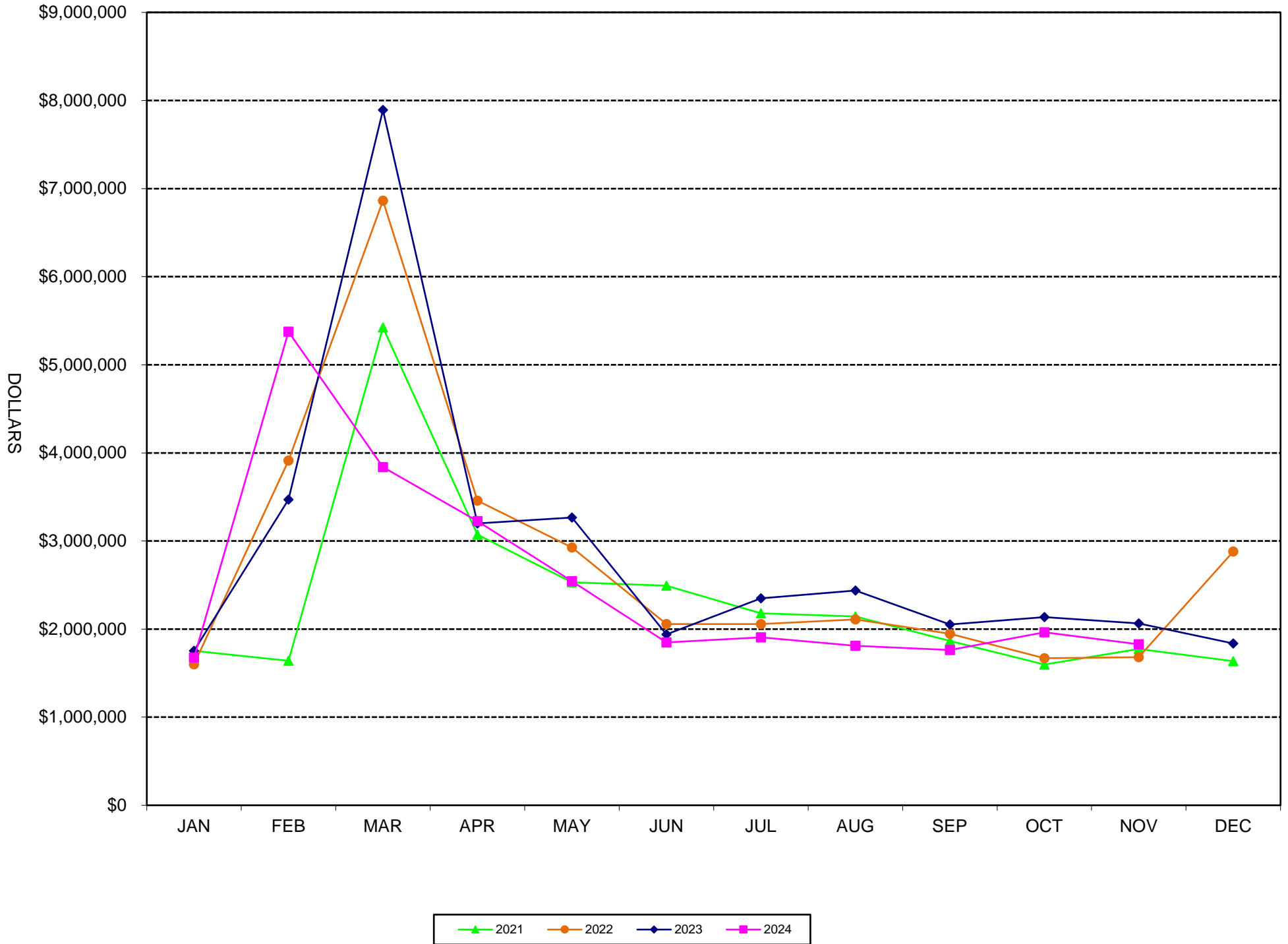


### Cash Activity Related to Taxable Employers - Most Recent 24 Months Excluding FUTA Tax Credits



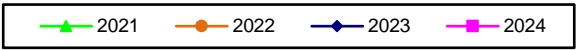
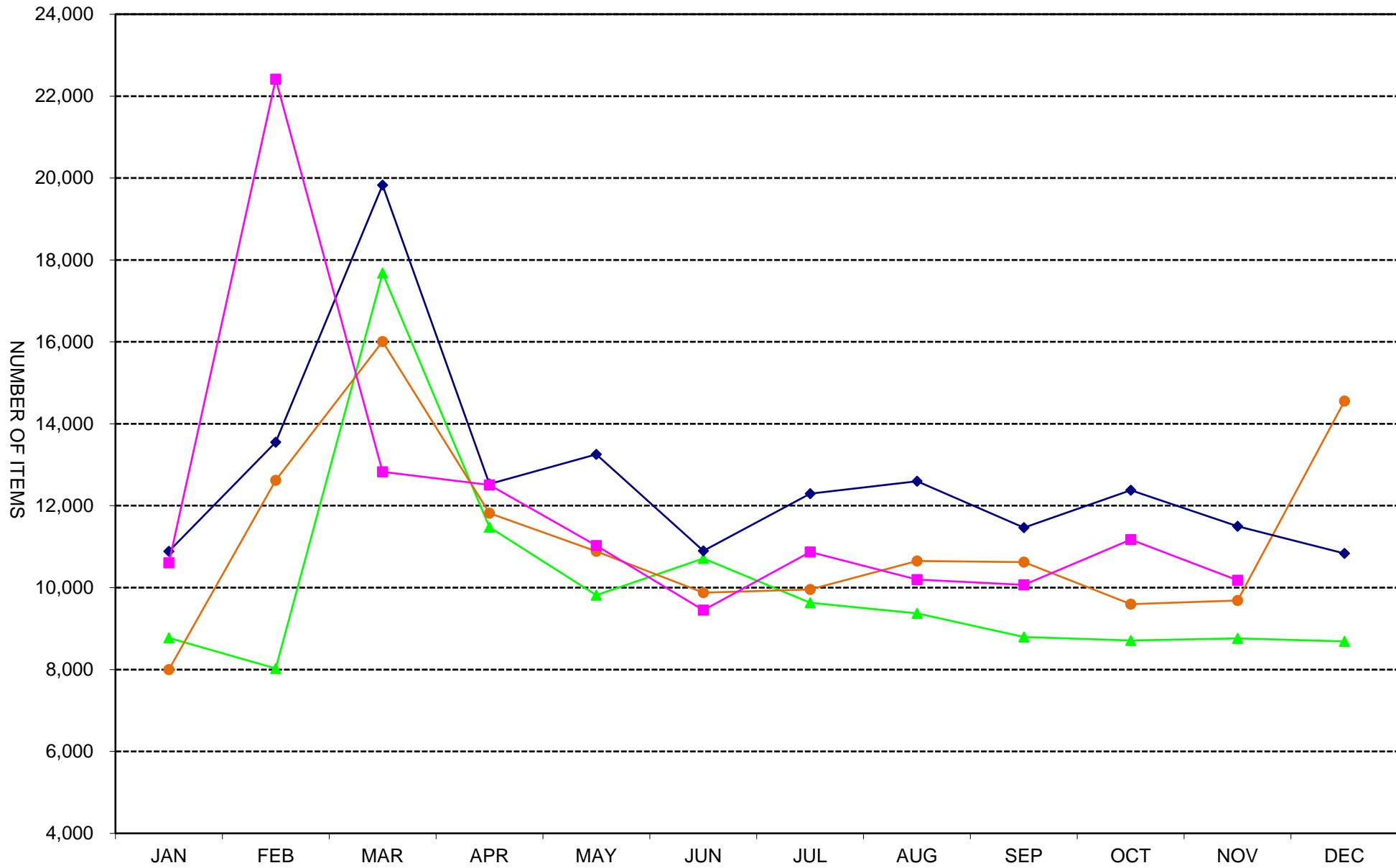
# MONTHLY OVERPAYMENT CASH RECEIPTS

(by dollar amount)

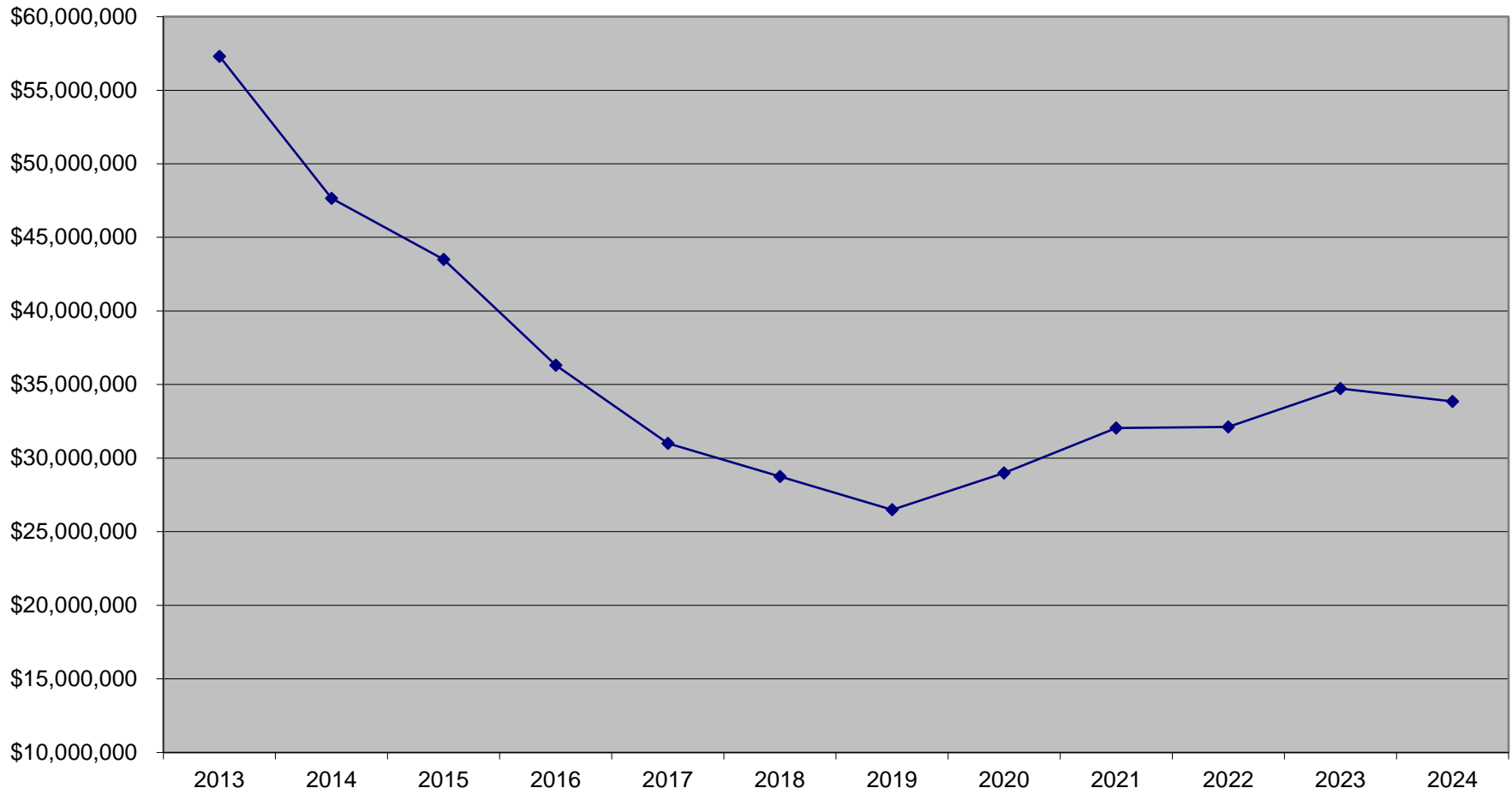


# MONTHLY OVERPAYMENT CASH RECEIPTS

(by number of items)

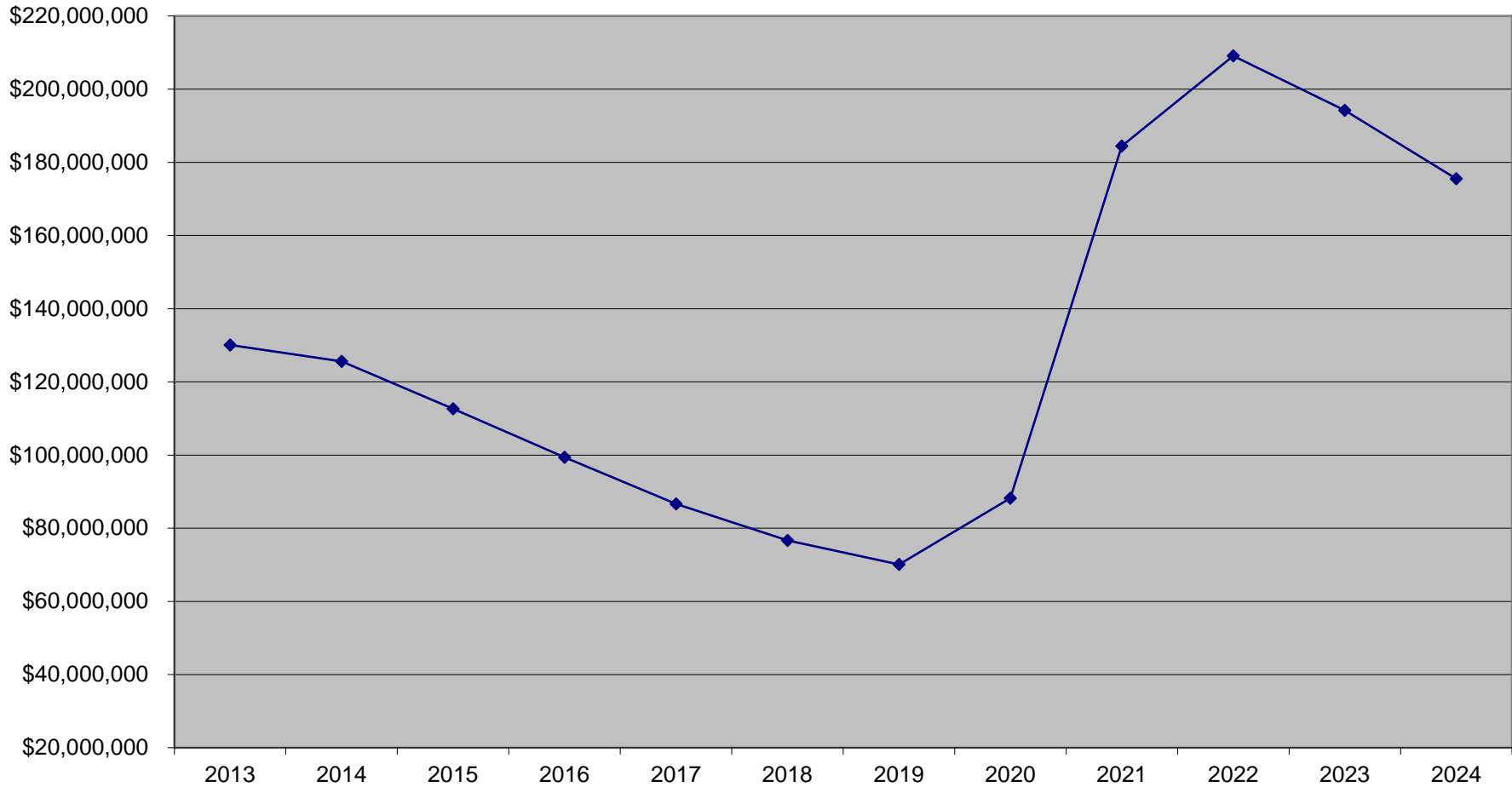


**TOTAL TAXABLE EMPLOYER RFB & SOLVENCY RECEIVABLES**  
**(for all years as of November)**



**Source: Monthly Balance Sheet**

**TOTAL BENEFIT OVERPAYMENT RECEIVABLES**  
**(for all years as of November)**



**Source: Monthly Balance Sheet**

**24-154 CATHOLIC CHARITIES BUREAU, INC. V. WI LABOR REVIEW COMM'N**

DECISION BELOW: 3 N.W.3d 666

LOWER COURT CASE NUMBER: 2020AP2007

QUESTION PRESENTED:

Wisconsin exempts from its state unemployment tax system certain religious organizations that are "operated, supervised, controlled, or principally supported by a church or convention or association of churches" and that are also "operated primarily for religious purposes."

Petitioners are Catholic Charities of the Diocese of Superior and several sub-entities. Although all agree Catholic Charities is controlled by a church-the Diocese of Superior-the Wisconsin Supreme Court held that Catholic Charities is not "operated primarily for religious purposes" and thus does not qualify for the tax exemption. Specifically, the court held that Catholic Charities' activities are not "typical" religious activities because Catholic Charities serves and employs non-Catholics, Catholic Charities does not "attempt to imbue program participants with the Catholic faith," and its services to the poor and needy could also be provided by secular organizations.

The questions presented are:

1. Does a state violate the First Amendment's Religion Clauses by denying a religious organization an otherwise-available tax exemption because the organization does not meet the state's criteria for religious behavior?
2. In addressing federal constitutional challenges, may state courts require proof of unconstitutionality "beyond a reasonable doubt?"

ORDER OF 12/16/2024:

THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 12/13/2024



No.	Laws	Topic	Proposal/Comment Summary	Source
1	S. 108.04(2)(bb) and 103.90(5).	Access; work search; barriers for new applicants	<p>Legal Action of Wisconsin - provides civil legal services to Wisconsinites who cannot afford legal help (including farmworkers)</p> <p><b>Access:</b> more needs to be done to expand access for those who need help applying. The prior phone filing system was helpful for those with limited computer literacy. Job Center staff and UI Navigators cannot physically assist claimants with their applications, which makes filing more difficult for those with limited computer literacy.</p> <p><b>Work Search Requirements:</b> Concern regarding work search requirements and how they apply to seasonal workers. Work search provisions (and the way DWD shares information on work search requirements) could be changed to make UI benefits and the work search requirements more appropriate for migrant and seasonal farmworkers.</p> <p><b>Barriers for new applicants:</b> There are issues where pandemic-era claims are reopened, which causes delays in new claim applications.</p>	Erica Sweitzer-Beckman, Attorney at Legal Action of Wisconsin (PH & email)
2		National ID Verification Process	<p>UI Navigator Program at UMOS - through the Navigator Grant, provides assistance to UI claimants aiming to improve access</p> <p><b>National ID Verification:</b> difficulty for individuals to work through the new system (elderly, low tech proficiency, limited English proficiency), glitches, making multiple trips to the Post Office to verify identity, wrong information from Post Office, DWD, and Login.gov customer service results in people being routed back and forth between the different help lines.</p>	Erin McManaway, UMOS Unemployment Insurance Navigator (PH)
3		National ID Verification Process	<p>UI Navigator Program at UMOS - through the Navigator Grant, provides assistance to UI claimants aiming to improve access</p> <p><b>National ID Verification:</b> claimants in rural areas can have difficulty filing for benefits due to lack of cell service or internet access and are being negatively impacted by the new verification process. For example, claimants are having to make multiple trips to get help and verification is taking longer than an hour to go through, which causes delays in accessing online services and missing UI payments because of it.</p>	Paulina Wienke, UMOS Unemployment Insurance Navigator (PH)

4	National ID Verification Process	<p>UI Navigator Program at UMOS - through the Navigator Grant, provides assistance to UI claimants aiming to improve access</p> <p><b>National ID Verification:</b> claimants are choosing not to file for UI benefits because of the new process, which is inconvenient and discouraging. Claimants with limited education have difficulty. When trying to verify with Login.gov, individuals have run into old phone numbers being on file, which makes it so they can't verify online, then they need to go to the Post Office.</p>	Jena, UMOS Unemployment Insurance Navigator (PH)
5 S. 108.05	Program improvements	<p>Individual</p> <p><b>Benefit calculations:</b> Request for more transparency in explaining how benefit calculations are impacted by other factors (ex. part time employment).</p> <p><b>Handbook:</b> The Claimant Handbook is confusing at the outset and should be consolidated, would be easier to understand in smaller portions.</p>	Sara Snyder (PH)
6 S. 108.22(8), 108.02(10e); S. 108.12(e)	Repayment of benefits; departmental coordination	<p>Individual</p> <p><b>Repayment of benefits:</b> If an overpayment is due to departmental error, repayment should not be required.</p> <p><b>Departmental coordination:</b> There should be a connection between UI and Worker's Comp. so individual eligibility for either program is more quickly resolved.</p>	Theresa (PH)
7 S. 108.18	Experience rating and contributions	<p>Appleton Stainless, Inc</p> <p><b>Experience rating:</b> Employer's experience ratings should not be impacted if they are not the most recent employer on a claim (i.e. an employee quit, got a new job, then was laid off shortly after, but benefits are accounted against the quit employer's experience rating).</p> <p><b>Contributions:</b> Fairness should be reassessed as employers who exploit the system (e.g. unnecessarily loading hours one week to lay off workers for the next week) should pay in more than those with few claims.</p>	Gary Fahey, Appleton Stainless, Inc. (email)
8 S. 108.05	Benefit rate	<p>Individual</p> <p>Rather than relying on a uniform maximum benefit, the maximum benefit should be calculated based on a percentage of an individual's income (40%, 50%, or even 60%). Additionally, the current maximum benefit payment should be increased.</p>	John Mellberg (email)

9	S. 108.04(11); 108.04(2)(a)1.; 108.04(5); 15 U.S.C. § 9023	Claim practices	<p>Wisconsin Judicare Inc. dba Judicare Legal Aid - a non-profit civil legal aid law firm who represents claimants struggling to navigate UI processes</p> <p><b>Primary income test:</b> DWD should identify and remedy PUA cases that used the primary income test.</p> <p><b>LWA concealment:</b> DWD should stop assessing a 40% administrative penalty for concealment of LWA benefits and give restitution to impacted claimants.</p> <p><b>Fraud:</b> DWD should require clear evidence of intent in fraud determinations. DWD should overhaul its fraud investigation methods and communications. DWD should review cases where fraud was charged regarding gross income for PUA recipients.</p> <p><b>Pandemic benefit claims:</b> DWD should refrain from charging fraud for honest mistakes in pandemic benefit eligibility.</p> <p><b>Due process:</b> DWD should hold proper hearings for overpayment determinations (particularly for PUC and FPUC benefits).</p> <p><b>Able and available:</b> DWD should change its standard for "able and available" so it includes those with disabilities or caregiving responsibilities.</p> <p><b>Online filing:</b> DWD should provide alternatives to online filing and provide physical resources to address barriers for individuals with limited digital access or literacy (or those in rural and underserved areas).</p> <p><b>Misconduct:</b> DWD should reevaluate its standards for absenteeism and its connection to intentional misconduct.</p> <p><b>General:</b> Provide transparent and accessible processes for reopened cases, provide clear and consistent communication with claimants for filing and resolving claim issues, and provide comprehensive training for DWD staff to ensure accurate determinations and compliance with federal and state compliance.</p>	Beth Ann Richlen, Executive Director of Judicare Legal Aid (email)
10	S. 108.04(3)	Waiting week	Individual End waiting week for benefit payments (like during the pandemic)	Lisa Schmidt (email)
11	S. 108.02(12)(bm); S. 108.21	Worker classification audit procedures	Business Owner in Hayward The UI audit process should include more thorough follow up for employers and independent contractors about how they do or do not meet the criteria under the six of nine conditions employee status test.	Nicole Nathan (email)
12		Departmental coordination	Individual Request for additional coordination between the Job Center and UI (citing paid CDL training delays)	Timothy Gierke (email)

13	S. 108.04(2)(bb), 103.90(5)	Work search	<p>Governor's Council on Migrant Labor - council tasked with advising DWD and other state officials on issues affecting Wisconsin's Migrant and Seasonal Farmworkers (MSFWs)</p> <p><b>Work search:</b> Provide a work search waiver for MSFWs who have returned to their home states for the off-season.</p> <p>Provide a work search waiver for MSFWs who have a confirmed offer to return to Wisconsin for employment</p>	<p>Jose Martinez, Chair of the Governor's Council on Migrant Labor (email)</p>
14	S. 108.14(20); 108.04(5); 108.04(2)(a)3.	Fraud and re-employment	<p>Wisconsin Independent Businesses - provides small, independent business owners with an effective voice in the legislative and regulatory activities of state government</p> <p><b>Fraud:</b> DWD should conduct additional work search audits</p> <p>Employees terminated for workplace misconduct should not be eligible for benefits</p> <p>Review findings and consider adopting recommendations from the Legislative Audit Bureau's fraud audit</p> <p><b>Re-employment:</b> Starting the third week and continuing for a benefit year, at least 2 weekly work search actions must be direct contacts with potential employers.</p> <p>If DWD provides potential jobs, the claimant must apply for those jobs to satisfy their work search requirement</p>	<p>Brian Dake, Wisconsin Independent Businesses (email)</p>
15			<p>Individual</p> <p>Claimants must know all the rules but UI staff do not always agree.</p> <p>Issues with timing for filing claims</p>	<p>Khayyana Suggs (email)</p>
16	S. 108.04(2)(bb)1.	Work search	<p>Midwest Food Products Association - vegetable processing industry</p> <p>Work search waiver should be 16-20 weeks for seasonal workers instead of 8-12 weeks.</p>	<p>Jason Culotta, Midwest Food Products Association (email)</p>

**From:** [Gary Fahey](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Subject:** Unemployment Insurance recommended changes  
**Date:** Friday, November 22, 2024 1:54:36 PM  
**Attachments:** [PastedGraphic-3.png](#)

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**CAUTION: This email originated from outside the organization.  
Do not click links or open attachments unless you recognize the sender and know the content is safe.**

I would like to submit some thoughts based upon 26 years in private business.

Working with several contractors in the winter, they speak / spoke of crowding the hours into one week so they can lay their guys off the next week (every other week) to let them go ice fishing. The comment is usually followed by, "Since I max out on UI each year anyway, it doesn't hurt me."

I have had two claims for UI of employees that left of their own accord for greener grass on the other side. They worked a short time at the next job and then left the new company but it falls on my history. That seems unfair to me.

Secondly, I have had no lay-offs, firings, etc, other than the two afore mentioned departures of their own accord. Yet I pay in substantial UI contributions each year despite my history. I would like to hear why I pay in so much given the contractor practices stated earlier.

I would like to hear it explained why there isn't a fairness of those that exploit it or use it heavily are paying the most into it.

Gary Fahey  
Appleton Stainless, Inc  
Ph: 920.733.9000 / Fx: 866.366.2429  
[gfahey@appletonstainless.com](mailto:gfahey@appletonstainless.com)



**From:** [John Mellberg](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Subject:** Comment on the Unemployment Insurance Law  
**Date:** Wednesday, November 20, 2024 4:40:08 AM

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**CAUTION: This email originated from outside the organization.  
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To whom it may concern,

Currently the unemployment insurance law calculates benefits based on a uniform maximum benefit. Unfortunately, this is to the extreme detriment of middle-income people who have higher earnings than the average worker. The result is that unemployment insurance is inadequate to sustain middle level earners, while they seek jobs which are in line with their career and or occupations.

Maximum benefit would be more fairly calculated if it was based on a percentage of income. Whether that percentage was 40%, 50%, or even 60%, a percentage would be a better and fairer basis of calculation. Unemployment is a concern for middle class people just as much as lower wage earners and we pay in more than lower wage earners, if my understanding of the law is correct.

Regardless the current maximum benefit is inadequate for a person who has a mortgage/rent of let's say \$1200 or more. Then we have to factor in how a middle-income individual who becomes unemployed and may or may not have adequate savings as other bills such as automotive loans, insurance, and expenses for the family. In this day and age many people do not have significant savings or have money that's tied up in their retirement funds (401K's, IRA's, etc.) that they can't readily touch.

Additional expenses such as cobra coverage for family health insurance also impacts middle earners. As such I think the current formulation and maximum benefit are not in line with inflation or what I would consider a fair and sustainable portion of one's regular income. While I can't necessarily suggest specific solutions to this issue, I think that it should be addressed in some fashion.

Wage earners in Wisconsin represent a wide spectrum of incomes potentially and any one of us can find ourselves unemployed. In this day and age employment is not as stable or as predictable as it has been in past eras. There are also many career changes in the average person's working life typically. As a result, there is a good deal more mobility today. However, there are also spaces in between such moves where a person is not earning income. Yet expenses remain.

While it is understood that unemployment isn't intended to be a long-term solution and the goal is for recipients of the benefit to ultimately find work, if someone goes broke in the process, that search becomes increasingly difficult. There has to be a balance of concerns here. People tend to think of unemployment as being something that is collected strictly by low wage earners but increasingly that is not the case.

The COVID-19 era definitely showed us all that unemployment was a real possibility and were it not for the increase in benefits to a level that might actually be considered sustainable many people including myself would have wound up on the street.

For my part, I had worked in IT consulting for years and had just finished a contract prior to the plague happening and was unable to find work for most of 2020. Were it not for the expanded benefit I definitely would not have been able to make my rent, and my savings was insufficient to carry me more than a few months. I was out of work for most of that year. So, the COVID-19 situation definitely brought this home for me and probably others like me.

Thank you for taking the time in evaluating this comment I hope that it helps you identify potential improvements to this law. Unemployment Insurance is worthwhile and has helped many people get back on their feet in the event of a job loss or other calamities such as biblical scale plagues. I remain very much in support of it.

Respectfully submitted,  
John Mellberg

**From:** [Beth Ann Richlen](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Subject:** UI Public Hearing Comment  
**Date:** Friday, November 22, 2024 3:31:33 PM  
**Attachments:** [image001.png](#)  
[UI Public Comment JLA.11.22.24.pdf](#)

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**CAUTION: This email originated from outside the organization.  
Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Attached please find the Public Comment on behalf of Wisconsin Judicare Inc. dba Judicare Legal Aid.

***Beth Ann Richlen***

*(She/Her/Hers)*

Executive Director

**Judicare Legal Aid**

401 N. Fifth Street, Suite 200 | P.O. Box 6100

Wausau, WI 54402-6100 | Fax: (715) 841-1010

Main Office: (715) 842-1681 | Direct: (715) 847-4534



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November 22, 2024

**BY EMAIL ONLY: [UILawChange@dwd.wisconsin.gov](mailto:UILawChange@dwd.wisconsin.gov)**

Janell Knutson, Chair  
Unemployment Insurance Advisory Council  
P.O. Box 8942  
Madison, WI 53708

Dear Members of the Unemployment Insurance Advisory Council:

I write on behalf of Judicare Legal Aid to express significant concerns about the administration of Wisconsin's Unemployment Insurance (UI) program. Our non-profit civil legal aid law firm represents claimants struggling to navigate complex UI processes, and we have observed systemic issues that unfairly penalize vulnerable individuals and contravene federal and state law.

Judicare Legal Aid, based in Wausau, Wisconsin, serves the northern half of the state and Native American communities statewide. Our mission is to provide equal access to justice for low-income individuals across a large and diverse service area. We are acutely aware of the challenges faced by low income, immigrant, refugee, and minority populations, many of whom encounter barriers that make navigating the legal system particularly difficult. Our work consistently demonstrates that true access to justice requires the ability to understand both the law and legal proceedings—neither of which is possible in the current UI program.

Page 1

401 Fifth Street, Suite 200 | Wausau, WI 54403

**Phone:** (715) 842-1681 | **Toll-free:** (800) 472-1638

**Fax:** (715) 848-1885 | **Email:** [info@judicare.org](mailto:info@judicare.org)

**Website:** [judicare.org](http://judicare.org)



Below, we outline critical areas of concern and propose improvements to ensure a fair and transparent UI system:

1. Failure to Reopen Cases Denied Under the Illegal Primary Income Test  
Despite a court ruling invalidating the Department’s use of the primary income test for Pandemic Unemployment Assistance (PUA) benefits, the Department of Workforce Development (DWD) has not reopened affected cases. This inaction perpetuates harm to claimants wrongfully denied benefits or ordered to repay them. DWD must implement a process to identify and remedy these cases, ensuring compliance with judicial determinations and restoring confidence in its processes.

2. Imposition of Illegal Administrative Concealment Penalties  
DWD continues to charge a 40% administrative penalty for alleged concealment of Lost Wages Assistance (LWA) benefits, despite these penalties being illegal. This practice disregards federal law and imposes undue financial burdens on claimants. Immediate cessation of these penalties and restitution for impacted claimants is necessary.

3. Presumption of Fraud in Claim-Filing Mistakes  
The Department’s approach to fraud relies on an unjust standard, presuming fraudulent intent unless claimants prove they received incorrect advice or have a learning disability. This policy places an unreasonable burden of proof on claimants, many of whom make honest mistakes in a complex system. Fraud determinations should require clear evidence of intent, aligning with principles of fairness and due process.

4. Coercive Tactics to Elicit Fraud “Confessions”  
Investigative practices that coerce claimants into admitting fraud when they misunderstand UI laws are deeply troubling. Recent cases, such as the

Impens decision, highlight how individuals are wrongfully charged. DWD must overhaul its investigative methods and implement clear, claimant-focused communication to ensure a fair process.

#### 5. Responsibility Shift for Pandemic Benefits Eligibility

DWD's expectation that claimants determine eligibility for various pandemic benefits retroactively—despite the Department's own guidance errors—demonstrates an inequitable shift of responsibility. In 2022, DWD acknowledged partial fault for overpayments and refrained from charging fraud for honest mistakes. This policy should be reinstated, with DWD accepting accountability for its errors.

#### 6. Noncompliance with Federal Due Process Standards

The lack of proper hearings for overpayment determinations, particularly for PUC and FPUC benefits, violates federal due process requirements. Claimants must have the opportunity for a meaningful hearing, as mandated by 15 U.S.C. § 9023. Immediate corrective action is necessary to prevent further legal and procedural violations.

#### 7. Disregard for DWD Rules on "Able and Available" Standards

DWD's weekly certification questions require claimants to affirm they can work 32+ hours per week, despite this standard contradicting existing rules and policies for those with disabilities or caregiving responsibilities. This approach excludes eligible individuals and must be revised.

#### 8. Exclusivity of Online Filing Systems

DWD's reliance on an online portal has created barriers for individuals with limited digital access or literacy. The absence of mailed handbooks, comprehensive guidance, and in-person support disproportionately affects claimants in rural and underserved areas. DWD must provide alternative

claim-filing methods and clear, accessible resources to address these inequities.

#### 9. Misconduct Disqualification for Absenteeism

DWD applies a strict-liability standard for absenteeism disqualifications, contrary to federal requirements that such disqualifications must stem from intentional misconduct. This approach violates federal law and must be reevaluated to comply with established legal standards.

#### 10. Retroactive Fraud Charges Based on Undefined Standards

The retroactive application of unknown standards for determining gross income for PUA recipients undermines fairness and due process. Claimants charged with fraud under these conditions must have their cases reviewed and corrected.

#### Recommendations for Improvement:

We urge the Advisory Council to recommend the following measures:

1. Immediate policy changes to address the outlined issues, including halting illegal penalties and fraud presumptions.
2. Transparent and accessible processes for reopening cases affected by past errors.
3. Clear and consistent communication with claimants, with alternative methods for filing and resolving claims.
4. Comprehensive training for DWD staff to ensure accurate determinations and adherence to federal and state requirements.

The UI program must fulfill its purpose as a safety net for unemployed workers, not as a punitive system. We stand ready to collaborate with the



Council and DWD to implement these changes and advance equity and justice for Wisconsin workers.

Sincerely,

A handwritten signature in black ink that reads "Beth Ann Richlen". The signature is fluid and cursive, with a long horizontal flourish at the end.

Beth Ann Richlen  
Executive Director

**From:** [Erica L. Sweitzer-Beckman](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Cc:** [Abby Bar-Lev Wiley](#)  
**Subject:** comments from Legal Action of Wisconsin  
**Date:** Friday, November 22, 2024 4:01:34 PM  
**Attachments:** [image001.png](#)  
[11.21.24 UIAC comments Legal Action.pdf](#)

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Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Good afternoon, please see attached written copy of Legal Action of Wisconsin comments

.....  
Erica Sweitzer-Beckman (she/her/ella)  
Farmworker Project Attorney  
[elb@legalaction.org](mailto:elb@legalaction.org)  
Direct Line: 608-620-2019  
Office: 608-256-3304  
WhatsApp: 608-572-2025  
[www.legalaction.org](http://www.legalaction.org)  
[Madison Area Office](#)



**Our Mission:** To deliver exceptional civil legal services and structural change advocacy, free of cost, to those most in need.

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# LEGAL ACTION OF WISCONSIN

Providing free legal services to low-income Wisconsin clients since 1968 • Proporcionando servicios legales gratuitos a clientes de bajos ingresos en Wisconsin desde 1968

November 21, 2024

RE: Comments from Legal Action of Wisconsin to the Unemployment Insurance Advisory Council (UIAC)

Submitted at hearing and by e-mail at: [UILawChange@dwd.wisconsin.gov](mailto:UILawChange@dwd.wisconsin.gov)

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My name is Erica Sweitzer-Beckman. I'm an attorney with Legal Action of Wisconsin. Legal Action offers civil legal aid to Wisconsinites who cannot afford legal help. Our primary service area includes the southern 39 of Wisconsin's 72 counties –and we provide representation to farmworkers and victims of crimes state-wide. Thus far, in 2024 alone, Legal Action provided legal advice and representation in nearly 300 UI matters

Unemployment Insurance (UI) access offers vital stability for Legal Action of Wisconsin's clients trying to re-enter the workforce and we thank you for the opportunity to share our clients' experience in accessing unemployment insurance benefits.

**Ongoing Access Barriers:** We have seen the Wisconsin Department of Workforce Development's (DWD) UI Division's efforts through increased language access efforts and the UI navigator program. More, however, could be done to ensure that some of the hardest working members of Wisconsin's workforce have the chance to apply for benefits they may be due.

Previously, there was a phone filing system available for people without computer access or computer literacy. Now, nearly all applicants are required to file online and this continues to create access barriers for many of Legal Action's clients –including people who live in rural areas or who do not have computer skills.

I am honored to be a legal aid attorney for farmworkers, who often work twelve hour shifts seven days a week to put food on Wisconsinites' plates. Many of my clients who do agricultural work vital to Wisconsin's economy did not have access to education beyond 6<sup>th</sup> or 7<sup>th</sup> grade and do not have computer literacy or reading skills necessary to complete the UI application.

Currently, applicants who need help are often referred to the navigator program or to the job center; but, job center and navigator staff are not permitted to “key in” the responses of applicants. This means that job service staff must stand by and watch as applicants go through the degrading process of looking for each letter on the keyboard or computer pad as they struggle to complete the application.

**Increased access efforts from the DWD would also help prevent future benefits fraud.**

When DWD limits paths of meaningful access and benefits assistance, risk of fraud from unreliable “helpers” increases exponentially. Legal Action's clients include a UI applicant who became a victim of identity theft after a relative they trusted offered to “help with the computer stuff.”

We have also had multiple farmworker clients who paid someone who claimed to be a “professional/ expert in UI law” who spoke their language, lived in their community, and was accessible to them. These smooth “experts” took

money from vulnerable UI applicants who were trying to follow the rules and increased these applicants' vulnerability to UI fraud.

**Job search requirements:** I am a member of the Governor's Council on Migrant Labor, which includes both employer and worker representatives. Both employer and worker advocate members of the Council have expressed concern regarding the work search barriers for seasonal workers under Wis. Stat. § 108.04(2)(b). The law could include narrowly tailored language that specifically provides a work search waiver for individuals who are migrant farmworkers within the meaning of Wis. Stat. § 103.90(5) and who, through their demonstrated work history, have a reasonable expectation of returning to seasonal agricultural employment when seasonal work resumes.

Alternatively, the DWD UI Division could provide more information for laid off seasonal workers and meaningful ways in which seasonal workers could meet the job search requirements through training programs or other meaningful job search actions<sup>1</sup>

**More Barriers for New Applicants:** Recently, we have seen clients who apply for benefits face delayed benefits determination because of a practice of reopening older claims from the height of the pandemic. In at least one case, the applicant was alleged to have engaged in fraud regarding his pandemic benefits, which was not true. Still, it took him months of appeals and hearings to get the benefits he was due for his 2024 layoff.

During the height of the pandemic, Wisconsin, along with the rest of the nation, faced an unprecedented flood of UI applications and most UI applicants were not able to receive help or guidance regarding their UI applications.

A program practice of prioritizing review of previous applications for workers facing job loss once again is a practice that harms the most vulnerable Wisconsinites –not a process focused on identifying fraud. Wisconsinites who were out of work during the pandemic faced irreparable blows to their economic security. Many Legal Action of Wisconsin clients re-entered the workforce, but often faced both lower pay as well as less job security than prior to the pandemic. Reviewing prior applications while processing current applications leads to unnecessary barriers and delays to access critical UI benefits for workers in need—without meaningfully addressing fraud.

**Contact information:**

Thank you for the opportunity to provide comments regarding the unemployment insurance experience of Legal Action of Wisconsin's clients. Please do not hesitate to contact us if you have questions or require follow-up information.

- Erica Sweitzer-Beckman [elb@legalaction.org](mailto:elb@legalaction.org)

*Attorney Sweitzer-Beckman represents Wisconsin's agricultural workers and also serves on the Governor's Council on Migrant Labor.*

- Brenda Lewison [BLL@legalaction.org](mailto:BLL@legalaction.org)

*Attorney Lewison's unemployment insurance advocacy work includes representation of UI claimants in hearings, appeals with the Labor and Industry Review Commission (LIRC), and judicial review appeals of LIRC decisions.*

- Ashley Semington [amsemington@legalaction.org](mailto:amsemington@legalaction.org)

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<sup>1</sup> Additional information and comments from the Governor's Council on Migrant Labor submitted as a separate comment.



*Ashley Semington is a Paralegal with Legal Action of Wisconsin's Farmworker Project. Her unemployment insurance advocacy work includes representing farmworker claimants in hearings and helping farmworker UI claimants facing access barriers.*

- Abby Bar-Lev Wiley [abw@legalaction.org](mailto:abw@legalaction.org)

*Bar-Lev Wiley is Legal Action's Legislative and Compliance Director*

- Travis La Chance [tal@legalaction.org](mailto:tal@legalaction.org)

*Attorney La Chance is Legal Action's Public Benefits Priority Coordinator*

**From:** [Lisa Custin](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Date:** Friday, November 15, 2024 11:01:22 AM

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Hello, This is a Lisa Schmidt I would love to have that one week that you all put on hold to stop. These are people's money that they earned and I don't feel that It is right to put the first week on hold. During Covid you all put a stop on it I would like it back like that again. Please think about it and let me know what you think about this.

Thank you  
Lisa schmidt

**From:** [Nicole Nathan](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Subject:** UI Public Comment Submission  
**Date:** Tuesday, November 19, 2024 7:39:58 AM

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To Whom It May Concern,

Greetings, my name is Nicole, I am a business owner from Hayward, Wisconsin and first off I would like to thank you for the opportunity to engage in this public comment period regarding Wisconsin's Unemployment Insurance Law.

In May of 2024, I underwent an audit examination conducted by the DWD Unemployment Insurance Division to determine if individuals I engaged for services were properly classified as independent contractors.

During the examination process, I provided the examiner with pertinent facts and circumstances as they pertain to UI's nine factors/conditions for each of the individuals who were in question and such facts and circumstances clearly pointed to, in my opinion, a contractor relationship, not an employee relationship. The audit examiner, however, determined that each of the individuals were employees. Upon receiving the initial determination, I asked for more information on why each of the individuals in question had been deemed 'employees' but I never received a response from the field examiner. Therefore, I reached out to the examiner's supervisor to share concerns I had regarding the audit process and requested further information on how the determination was made but still did not receive any additional information. I have since filed an appeal and am currently waiting for a hearing date.

I decided to take advantage of this opportunity to share feedback because my concern is that not once during or after the audit determination was I given information regarding how I had or had not met the UI's 9 criteria for each of the individuals who were in question. I do not know which specific facts and circumstances of the statute for each of my subcontractors are in dispute. I felt that in order for me to receive any further information and understanding I would be forced to appeal the determination.

As a business owner, I strive to be compliant with all state requirements, however, that seems nearly impossible when I am not given the necessary information to do so.

Moreover, I must continue to do business while waiting for my hearing date which complicates how I engage contractors for services my business requires in order to operate.

My hope would be, going forward, that the UI Audit process include more thorough follow up for employers AND people who operate as Independent Contractors in regards to how they are or are not meeting the criteria as they pertain to the 9 factors/conditions set by the DWD.

Thank you once again for this opportunity.  
Nicole Nathan

**From:** [Tim Gierke](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Subject:** UI Benefits  
**Date:** Thursday, November 21, 2024 7:40:05 PM

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The relationship between Job Center and DWD is very important. Yet it is very confusing. When applying to use some of the services like paid CDL training to obtain a job is a slow process. Went to have a meeting in Late September to get into a class for November 4<sup>th</sup>. They failed to get me in with more than a week to set up. Then was told to come to registration on the 21st of November for a class starting on December 4<sup>th</sup>.

On November 14<sup>th</sup> received a call that they could not get me in until January. This seems counter-productive, isn't it their purpose to help get you off UI as quickly as possible not drag it out for 3 months? It would be the end of January beginning of February before I would be able to start a CDL career if I found a job immediately. Needless to say, I could not wait 3 months before starting any job so dropped out of the program. I need a job yesterday not tomorrow not 3 months from tomorrow.

WOW

Timothy Gierke

**From:** [Martinez, Jose](#)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Cc:** [Mueller, Kathryn M - DWD](#)  
**Subject:** FW: Work Search requirements for Migrant and Seasonal Farmworkers and Recommendations  
**Date:** Monday, November 18, 2024 11:21:08 AM  
**Attachments:** [image001.png](#)  
[letter from migrant council to UI advisory council 04 2024.pdf](#)  
**Importance:** High

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Good morning, Chair Knutson,

Please see the attached letter from the Governor's Council on Migrant Labor to the Unemployment Insurance Advisory Council regarding the Work Search requirement for Migrant and Seasonal Farmworkers and recommendations.

We look forward to future correspondence and conversation.

Best,

Jose Martinez  
President & Chief Executive Officer  
2701 S Chase Ave Suite B  
Milwaukee, WI 53207

Office: (414) 389-6006  
Cellphone: (920) 420-3801



April 17, 2024

Unemployment Insurance Advisory Council  
c/o Janell Knutson, Chair  
Wisconsin Department of Workforce Development Unemployment Insurance Division  
201 E. Washington Avenue  
P.O. Box 8942  
Madison, WI 53708  
sent via e-mail: [janell.knutson@dwd.wisconsin.gov](mailto:janell.knutson@dwd.wisconsin.gov); [UIBOLALEG@dwd.wisconsin.gov](mailto:UIBOLALEG@dwd.wisconsin.gov)

Re: Request from the Governor's Council on Migrant Labor to discuss work search requirements for Migrant and Seasonal Farmworkers

Dear Chair Knutson and Unemployment Insurance Advisory Council Members:

Greetings from the Governor's Council on Migrant Labor.

As you may know, the Governor's Council on Migrant Labor's duties<sup>1</sup> include advising the Department of Workforce Development and other state officials on issues affecting Wisconsin's Migrant and Seasonal Farmworkers (MSFWs). Like the Unemployment Insurance Advisory Council, the Governor's Council on Migrant Labor is comprised of employer and worker representatives.

As employer and worker advocates, we write to raise concerns regarding barriers MSFWs face in interacting with Wisconsin's unemployment insurance system. Migrant Council employer and worker representatives agree that Wisconsin's current work search requirements ignore the needs of Wisconsin's seasonal agricultural employers and do not recognize the needs and contributions of Wisconsin's migrant and seasonal workforce.

### **I. Unique nature of Wisconsin's migrant and seasonal workforce<sup>2</sup>**

Wisconsin's Migrant and Seasonal Farmworkers are among the hardest working members of Wisconsin's workforce. Each year, over five thousand<sup>3 4</sup> migrant and seasonal farmworkers travel from their home communities to accept seasonal

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<sup>1</sup> Wis. Stat. § 103.967

<sup>2</sup> Wis. Stat. § 103.90(5)(a) provides: " 'Migrant worker' or 'worker' means any person who temporarily leaves a principal place of residence outside of this state and comes to this state for not more than 10 months in a year to accept seasonal employment in the planting, cultivating, raising, harvesting, handling, drying, packing, packaging, processing, freezing, grading or storing of any agricultural or horticultural commodity in its unmanufactured state."

<sup>3</sup> Wisconsin Department of Workforce Development. *2023 Migrant and H-2A Worker Population Report*. <https://dwd.wisconsin.gov/jobservice/msfw/pdf/migrantpoprep2023.pdf>

<sup>4</sup> Because of factors including length of the season and the exclusions of some agricultural employers from coverage under Wis. Stat. § 108.02(13)(c)1, migrant and seasonal food processing workers are more likely to be eligible for Wisconsin unemployment insurance benefits than other MSFWs in Wisconsin. Accordingly, our concerns regarding the work search barriers are focused primary on the approximately 2500 MSFWs employed in food processing.

employment in Wisconsin. During the harvest season, Wisconsin's MSFWs often work twelve-hour shifts and 6-7 day work weeks. Differently from unemployed workers in other industries, Wisconsin's MSFWs often live in temporary employer provided housing, which closes at the end of the harvest season, and return to their home communities in other states at the end of the harvest season. Many of Wisconsin's MSFWs are residents of South Texas communities such as Eagle Pass, Pharr, and Laredo.

**A. A reliable and experienced workforce is essential for a successful harvest in Wisconsin. Accordingly, Wisconsin's food processing employers expend significant resources in recruiting and retaining their MSFW workforce.**

Wisconsin employers depend on a flexible and experienced workforce to meet the fluctuating demand of the harvest. Many Migrant and Seasonal Farmworkers have been returning to Wisconsin to work for the same employer or in the same industry for decades and these experienced workers are essential to making the harvest processing operate safely and smoothly. Wisconsin employers of MSFWs recognize that workers are most vulnerable to workplace injury within their first year of employment<sup>5</sup> and consequently, view worker retention as an important part of their health, safety, and injury prevention planning.

To retain their ties with MSFW employees, Wisconsin food processing employers invest significant resources in MSFW recruitment and retention through the use of migrant labor contractors,<sup>6</sup> direct communications with employees throughout the off season, and advertisements and recruitment events throughout South Texas.

**B. Current job search requirements are burdensome for Wisconsin's MSFWs and may cause Wisconsin to lose valuable members of its workforce to other states.**

Migrant and Seasonal Farmworkers come to Wisconsin because of the lack of employment opportunities in their home communities<sup>7</sup>. Many workers from South

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<sup>5</sup> National Safety Council. *Safety+Health* "New workers account for 35% of injuries, analysis of comp claims shows" July 13, 2022. Available at <https://www.safetyandhealthmagazine.com/articles/22780-new-workers-account-for-35-of-injuries-analysis-of-comp-claims-shows>.

<sup>6</sup> Wis. Stat. § 103.90(4).

<sup>7</sup> See, for example, Bureau of Labor Statistics, *Local Area Unemployment Statistics*, indicating a January 2023 unemployment rate of 4.5% (Webb County, TX), 7.1% (Hidalgo County, TX), and 9.3% (Maverick County, TX). Available by download at: <https://texaslmi.com/LMIbyCategory/LAUS>. Compare to a 2.7% unemployment rate in January of 2023 in the State of Wisconsin. Available by download at: <https://jobcenterofwisconsin.com/wisconomy/query>.



Texas travel not only to Wisconsin but to other states, such as Minnesota and Michigan, in the summer and early Fall to accept seasonal work. These workers all return to South Texas at the same time and are thus competing for the same small pool of jobs.

Wisconsin's MSFWs are frustrated that Wisconsin's work search requirements do not recognize their continuing attachment to their Wisconsin employment – particularly when they have a signed contract and have committed to returning to Wisconsin on a definitive date. MSFWs report that many South Texas employers will not take applications from workers who will be leaving the state in a few months. Some MSFWs have become so frustrated with Wisconsin's UI system that they have chosen to accept seasonal employment in Minnesota instead.

Like Wisconsin, Minnesota's UI system requires workers to be actively seeking work but acknowledges that a work search can include maintaining ties with a worker's current occupational field and industry.<sup>8</sup>

## **II. Potential solutions to recognize and strengthen Migrant and Seasonal Farmworker ties to Wisconsin's agricultural industry.**

### **A. Provide a work search waiver for MSFWs who are out of work and who have returned to their home states for the off-season.**

Wis. Stat. § 108.04(2)(b) could include narrowly tailored language that specifically provides a work search waiver for individuals who are migrant farmworkers within the meaning of Wis. Stat. § 103.90(5) and who, through their demonstrated work history, have a reasonable expectation of returning to seasonal agricultural employment when seasonal work resumes. This change would take a significant burden from MSFWs, who are otherwise required to conduct work searches in their home communities from late fall through June, despite agreements or plans to return to Wisconsin seasonally for work.

### **B. Provide a work search waiver for migrant and seasonal farmworkers with a confirmed offer to return to Wisconsin for employment.**

Alternatively, Wis. Stat. § 108.04(2)(b)2, could include a narrowly tailored provision that extends the waiver for workers with a confirmed offer to return for employment from four weeks to up to sixteen weeks. Wisconsin food processing employers typically recruit workers in March or April for seasons scheduled to begin in late June or early July. Wis. Stat. § 103.915 requires employers and recruiters to provide workers with written disclosures at the time of recruitment.

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<sup>8</sup> See, for example Minnesota Unemployment Insurance. "Seeking suitable employment." Available at: <https://uimn.org/applicants/getpaid/stay-eligible/seeking.jsp>. See also MINN. STAT. §268.035 Subd.23a.

These potential changes are consistent with United States Department of Labor (USDOL) requirements and recommendations. The USDOL specifically recognizes that an individual with a definitive recall date is “job attached” and can meet the work search requirement by maintaining contact with the recalling employer.<sup>9</sup>

Employer representatives on the migrant council note that they are willing to provide the Department of Workforce Development with verification of the end of a worker’s seasonal employment and/or eligibility for rehire at the end of the harvest season and to follow-up with any required verification of recruitment and rehire.

### **III. Next steps**

Several of our members are available to answer questions about Wisconsin’s MSFWs at the next UI Advisory Council meeting on June 13, 2024, and we would welcome the possibility to speak with you further and to answer any questions that you may have.

Please contact our Council Chair, Jose Martinez at [Jose.Martinez@umos.org](mailto:Jose.Martinez@umos.org), with your response and with any questions. Please provide copies of your reply to Kathryn Mueller, Migrant and Seasonal Farmworker Programs Planning and Section Chief, at [Kathryn.Mueller@dwd.wisconsin.gov](mailto:Kathryn.Mueller@dwd.wisconsin.gov). We look forward to speaking with you.

Sincerely,

The Governor’s Council on Migrant Labor

Jose Martinez, Chair

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<sup>9</sup> Unemployment Insurance Program Letter 13-20, Change 3. July 1, 2020. Page 5. Available at [https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2021/UIPL\\_13-20\\_Change\\_3.pdf](https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2021/UIPL_13-20_Change_3.pdf)

**From:** [bdake@wibiz.org](mailto:bdake@wibiz.org)  
**To:** [DWD MB UI LAW CHANGE](#)  
**Subject:** Public Comments and Suggestions to the UIAC from Wisconsin Independent Businesses  
**Date:** Thursday, November 21, 2024 12:11:33 PM  
**Attachments:** [WIB Letter to UIAC - 112124.pdf](#)

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To Whom it May Concern:

Attached is letter from Wisconsin Independent Businesses to the UIAC in response to Council's request for public comments and suggestions regarding Wisconsin's UI program.

Respectfully,

Brian Dake  
President  
Wisconsin Independent Businesses



**THE LEADING VOICE  
FOR WISCONSIN SMALL  
AND INDEPENDENT BUSINESSES**

November 21, 2024

Janell Knutson  
Chair  
Unemployment Insurance Advisory Council  
P.O. Box 8942  
Madison, WI 53708

Dear Ms. Knutson:

Wisconsin Independent Businesses (WIB) strives to provide small, independent business owners with an effective voice in the legislative and regulatory activities of state government.

We proudly represent nearly 2,000 small, independent business owners throughout Wisconsin. Most of our members, approximately 85%, own and operate businesses that have fewer than 25 employees and annual gross revenues of less than \$5 million.

For the 2025-2026 legislative session, we respectfully request the Unemployment Insurance Advisory Council (UIAC) recommend statutory changes to improve UI benefit fraud detection, reduce UI benefit fraud, and transition UI claimants to gainful employment quickly.

UI benefit fraud grew at an alarming rate during the COVID-19 pandemic. In a June 2022 report to Congress, the United States Government Accountability Office (GAO) designated the UI program as “High Risk” which is conferred upon government programs in need of transformation and/or vulnerable to waste, fraud, abuse, and mismanagement. In a September 2023 report to Congress, the GAO estimated the dollar amount of nationwide UI fraud during the pandemic, April 2020 through May 2023, was likely between \$100 billion and \$135 billion – approximately 11% and 15%, respectively, of the total amount of UI benefits paid during the pandemic.

***WIB...Helping you where you need it.***

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | [www.wibiz.org](http://www.wibiz.org)

While the surge in demand for UI benefits during the pandemic contributed to the unprecedented rise in UI benefit fraud, we believe there are material weaknesses within Wisconsin's UI law which continue to allow too many ineligible individuals to collect UI benefits. From our perspective, these material weaknesses should, in part, be addressed through:

➤ Additional Work Search Audits

UI claimants are required to report their four work search actions each week when filing their claim. State law also requires the Wisconsin Department of Workforce Development (DWD) to conduct random work search audits and report annually to the UIAC on the number and the results of work search audits conducted in the previous year. Analysis of this data validates our advocacy.

Over an eight-year period beginning in 2016, 26% of work search audits conducted by DWD resulted in a determination that a UI claimant failed to comply with their weekly work search requirement. Over the past five years, 33% of work search audits conducted by DWD resulted in a determination that a UI claimant failed to comply with their weekly work search requirement. In 2023, 39% of work search audits conducted by DWD resulted in a determination that a UI claimant failed to comply with their weekly work search requirement.

➤ Modernization of Wisconsin's Employee Misconduct Law

A guiding principle of the UI program is that UI benefits are paid to eligible workers who are unemployed through no fault of their own. Consistent with this principle, employees terminated due to workplace misconduct should not be eligible for UI benefits.

With the support of WIB, state lawmakers modernized Wisconsin's Employee Misconduct law more than a decade ago. 2013 Wisconsin Act 20 defined misconduct and enumerated that misconduct includes seven general actions by an employee for which the terminated employee is ineligible for UI benefits for a specified period.

Since then, various provisions of this law have been subject to legal challenge, business practices and operations have changed, and unforeseen instances of employee misconduct have arisen. To account for these circumstances, the Management Representatives to the UIAC have previously proposed specific statutory changes to modernize Wisconsin's Employee Misconduct law in a manner that we support.

Beyond these specific statutory changes, we respectfully request the UIAC review the findings and consider adopting recommendations put forth by the Legislature Audit Bureau (LAB) in its audit of the activities of the DWD to detect, investigate, and prevent fraud in the UI program. In November 2023, the legislature's Joint Committee on Audit directed the LAB to conduct this audit, and the LAB projects this audit will be released before the end of this year.

Transitioning UI claimants back into the workforce quickly is a financially beneficial outcome for employers and unemployed workers. To expedite this transition, WIB respectfully requests that UI claimants be subject to additional UI benefit qualifying requirements. More specifically:

- for the third and subsequent weeks of a claimant's benefit year, at least two weekly work search actions must be direct contacts with potential employers; and
- if DWD provides a claimant with a list of potential job opportunities, the claimant must apply for those jobs to satisfy their weekly work search requirement.

Thank you in advance for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Brian Dake". The signature is written in a cursive style with a long horizontal line extending to the right.

Brian Dake  
President  
Wisconsin Independent Businesses

**From:** [KEW SUGGS](#)  
**To:** [DWD MB UI BOLA LEG](#)  
**Subject:** Blame in the wrong place  
**Date:** Wednesday, November 13, 2024 8:02:20 PM

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The person who is filing for payments is forced to sign a statement saying he or she knows all of the rules. If anything goes wrong, he or she will lose that week's payment.

The hard catch is many of the Unemployment agents do not know or agree upon the same rulings. It is said one has a week to file for payment. But the truth is You Must do it by Sunday.

Example. Week 17, Saturday: if I do not file Week 18 Sunday I "Will" Lose my pay for Week 17. However, it says I have 1 week to file.

This is one of the bumps in the road the time line to file.

Truly,  
Khayyana Suggs

**From:** [Jason Culotta](#)  
**To:** [Knutson, Janell - DWD](#); [DWD MB UI BOLA LEG](#)  
**Subject:** MWFPA letter on UI search waiver request  
**Date:** Friday, December 13, 2024 11:28:40 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[MWFPA seasonal worker UI search waiver request 12.13.24.pdf](#)

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Ms. Knutson and the WI UIAC:

Please see the attached letter from the Midwest Food Products Association regarding a request to seek a waiver from the work search requirement for seasonal workers under UI.

I ask that this letter be shared with the UIAC in advance of the January 16<sup>th</sup> meeting.

Thank you,  
Jason

Jason Culotta  
President  
[Midwest Food Products Association](#)  
4600 American Pkwy, Suite 210  
Madison, WI 53718  
Phone | 608-255-9946

Follow MWFPA on   







December 13, 2024

Janell Knutson, Chair  
Unemployment Insurance Advisory Council  
WI Department of Workforce Development  
P.O. Box 8942  
Madison, WI 53708

**RE: Extended Unemployment Insurance Search Waiver for Migrant and Seasonal Workers**

Dear Ms. Knutson:

The Midwest Food Products Association (MWFP) appreciates the opportunity to submit this letter in support of an unemployment insurance work search waiver extension for migrant and seasonal workers who travel to Wisconsin to serve the food processing industry each year.

MWFP was founded in 1905 and represents the vegetable processing industry in Illinois, Minnesota, and Wisconsin. Fruit and vegetable processors in Wisconsin generate over \$6 billion in economic activity. The Midwest produces and processes more fruits and vegetables than any other area in the country, as Wisconsin and Minnesota rank 2<sup>nd</sup> and 3<sup>rd</sup> (respectively) in producing the highest value of vegetables in the nation.

Nearly 4,000 migrant and seasonal workers support Wisconsin's fruit and vegetable processing facilities each season, often supplementing small local workforces in rural regions of the state and providing essential service in harvesting and processing the fruits and vegetables produced here.

Wisconsin presently allows seasonal workers to receive unemployment for 8 weeks without job searches required. Other states such as Minnesota do not require a job search for an extended period, resulting in many migrant and seasonal workers seeking work outside Wisconsin as a result.

We ask that the Unemployment Insurance Advisory Council consider a work search exemption of 16-20 weeks for migrant and seasonal workers who have received a confirmed offer of employment via a letter or work agreement.

Thank you for your consideration of these comments. We would be happy to address any questions.

Sincerely,

Jason Culotta  
President, MWFP

Cc: Members, Wisconsin Unemployment Insurance Advisory Council