

1989 Senate Bill 293

Date of enactment: **November 30, 1989**
Date of publication*: **December 11, 1989**

1989 WISCONSIN ACT 77

AN ACT *to repeal* 108.18 (4m) and 108.18 (9s) and (9t); *to renumber* 108.04 (9); *to renumber and amend* 108.05 (3); *to amend* 20.445 (1) (gd), 46.27 (5) (i), 108.01 (1) and (2), 108.02 (4m), 108.02 (13) (k), 108.02 (21) (b), 108.04 (4) (a), 108.04 (7) (a), 108.04 (7) (L) 1, 108.04 (10) (b), 108.04 (11) (a), 108.04 (12) (e), 108.05 (1) (a) (figure) line 164, 108.06 (2) (a) (intro.) and (d), 108.09 (2) (a) and (c), (2r) and (3) (b), 108.09 (6) (a), 108.10 (1), 108.14 (2m), 108.151 (4) (a) 2, 108.16 (8) (c) 1, 108.16 (8) (f) and (10m), 108.17 (3), 108.20 (2m) and 108.22 (title); *to repeal and recreate* 108.05 (1) (b) (figure), 108.18 (4) (figure) and 108.18 (9) (figure); and *to create* 108.04 (7) (m) and (n), 108.04 (9) (b), 108.05 (1) (a) (figure) lines 165 to 189, 108.05 (3) (b), 108.07 (3m), 108.09 (4) (hm), 108.10 (8), 108.101, 108.16 (8) (cm), 108.17 (3m), 108.17 (5) and (6), 108.18 (3m), 108.22 (1) (e) and (f) and 108.225 of the statutes, **relating to:** various changes in the unemployment compensation law, granting rule-making authority, providing a penalty and making an appropriation.

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

SECTION 1. 20.445 (1) (gd) of the statutes is amended to read:

20.445 (1) (gd) *Unemployment interest and penalty payments.* From the moneys received as interest and penalties collected under ss. 108.04 (11) (c) and (13) (b) and 108.22 and assessments under s. 108.19 (1m), all moneys not appropriated under par. (ge) and (gf) for the payment of benefits specified in s. 108.07 (5) and 1987 Wisconsin Act 38, section 132 (1) (c), for the payment of interest to employers under s. 108.17 (3m) and for the payment of interest due on advances from the federal unemployment account under title XII of the social security act to the unemployment reserve fund, and for payments made to the unemployment reserve fund to obtain a lower interest rate or deferral of interest payments on these advances, except as otherwise provided in ss. 108.19 (1q) and 108.20.

SECTION 2. 46.27 (5) (i) of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

46.27 (5) (i) In the instances in which an individual who is provided long-term community support services

under par. (b) for which the individual receives direct funding, serve directly as a fiscal agent or contract with a fiscal intermediary to serve as a fiscal agent for that individual for the purposes of payment of performing the responsibilities and protecting the interests of the individual under the unemployment compensation contributions or reimbursement for unemployment compensation benefits law. The county department may elect to act as a fiscal agent or contract with a fiscal intermediary to serve as a fiscal agent for an individual who is provided long-term support services under s. 46.275, 46.277, 46.278, 49.52, 51.42 or 51.437. The fiscal agent under this paragraph is responsible for remitting any federal unemployment compensation taxes or state unemployment compensation contributions owed by the individual, including any interest and penalties which are owed by the individual; for serving as the representative of the individual in any investigation, meeting, hearing or appeal involving ch. 108 or the federal unemployment tax act (26 USC 3301 to 3311) in which the individual is a party; and for receiving, reviewing, completing and returning all forms, reports and other documents required under ch. 108 or the federal unemployment tax act on behalf of the individual. An individual may make an

informed, knowing and voluntary election to waive the right to a fiscal agent. The waiver may be as to all or any portion of the fiscal agent's responsibilities. The waiver may be rescinded in whole or in part at any time.

SECTION 3. 108.01 (1) and (2) of the statutes are amended to read:

108.01 (1) Unemployment in Wisconsin is recognized as an urgent public problem, gravely affecting the health, morals and welfare of the people of this state. The burdens resulting from irregular employment and reduced annual earnings fall directly on the unemployed worker and his or her family. The decreased and irregular purchasing power of wage earners in turn vitally affects the livelihood of farmers, merchants and manufacturers, results in a decreased demand for their products, and thus tends partially to paralyze the economic life of the entire state. In good times and in bad times unemployment is a heavy social cost, directly affecting many thousands of wage earners. Each employing unit in Wisconsin should pay at least a part of this social cost, connected with its own irregular operations, by financing compensation for its own unemployed workers. Each employer's contribution rate should vary in accordance with his its own unemployment costs, as shown by experience under this chapter. Whether or not a given employing unit can provide steadier work and wages for its own employes, it can reasonably be required to build up a limited reserve for unemployment, out of which benefits shall be paid to its eligible unemployed workers, as a matter of right, based on their respective wages and lengths of service.

(2) The economic burdens resulting from unemployment should not only be shared more fairly, but should also be decreased and prevented as far as possible. A sound system of unemployment reserves, contributions and benefits should induce and reward steady operations by each employer, since he the employer is in a better position than any other agency to share in and to reduce the social costs of his its own irregular employment. Employers and employes throughout the state should cooperate, in advisory committees under government supervision, to promote and encourage the steadiest possible employment. A more adequate system of free public employment offices should be provided, at the expense of employers, to place workers more efficiently and to shorten the periods between jobs. Education and retraining of workers during their unemployment should be encouraged. Governmental construction providing emergency relief through work and wages should be stimulated.

SECTION 4. 108.02 (4m) of the statutes is amended to read:

108.02 (4m) BASE PERIOD WAGES. "Base period wages" means all payments which are made to an employe during his or her base period for wage-earning services as a result of employment for an employer, and all sick pay which is paid directly by an employer to an

employe at the employe's usual rate of pay, all holiday pay, all vacation pay and all termination pay which is received by an employe during his or her base period as a result of employment for an employer. If an employe receives temporary total disability or temporary partial disability payments under ch. 102, the federal longshoreman's and harbor workers' compensation act (33 USC 901 to 950) or similar federal worker's compensation legislation as a result of employment for an employer, "base period wages" means, in lieu of such payments, all payments that the employe would have received in the employment during his or her base period, but not exceeding the amount, when combined with other wages, that the employe would have earned but for the disability. "Base period wages" also means back pay to which an employe is entitled under federal law, the law of any state or a collective bargaining agreement which the employe would have received as a result of employment during his or her base period and all payments an employer was legally required to make to a claimant with respect to employment in his or her base period, but failed to make due to bankruptcy or insolvency.

SECTION 5. 108.02 (13) (k) of the statutes, as created by 1989 Wisconsin Act 31, is amended to read:

108.02 (13) (k) "Employer" does not include a county department which serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i) as to any individual performing services for a person receiving long-term support services under s. 46.27 (5) (b), 46.275, 46.277, 46.278, 49.52, 51.42 or 51.437.

SECTION 6. 108.02 (21) (b) of the statutes is amended to read:

108.02 (21) (b) Notwithstanding par. (a), an employer's payroll includes only the first \$10,500 of wages paid by the employer during a calendar year to an individual, including any wages paid for any work covered by the unemployment compensation law of any other state, except as authorized in s. 108.17 (5).

SECTION 7. 108.04 (4) (a) of the statutes is amended to read:

108.04 (4) (a) A claimant is not eligible to start a benefit year unless the claimant has base period wages equal to at least ~~40~~ 34 times the claimant's weekly benefit rate under s. 108.05 (1), including combined wages equal to at least ~~13~~ 10 times the claimant's weekly benefit rate under s. 108.05 (1) outside of the quarter within that period in which the claimant has the highest wages.

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

108.04 (7) (a) If an employe terminates work with an employing unit, the employe is ineligible to receive benefits until ~~74~~ weeks have elapsed since the end of the week in which the termination occurs and the employe earns wages after the week in which the termination occurs equal to at least ~~14~~ 4 times the employe's weekly benefit

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rate under s. 108.05 (1) in employment or other work covered by the unemployment compensation law of any state or the federal government. For purposes of requalification, the employe's weekly benefit rate shall be that rate which would have been paid had the termination not occurred. ~~If an employe terminates employment with an employer prior to establishing a benefit year, the wages based on the employment terminated shall be reduced by 50% when computing the employe's base period wages under s. 108.06 (1) for purposes of benefit entitlement. If an employe terminates employment with an employer during a benefit year, the total amount of benefits to which the employe is entitled based on the employment terminated as of the week of termination shall be reduced by 50% and any wages paid based on the employment terminated shall be reduced by 50% when computing the employe's base period wages under s. 108.06 (1) for purposes of benefit entitlement in a subsequent benefit year if the termination occurs during the base period for that benefit year.~~ This paragraph does not preclude an employe from establishing a benefit year by using the base period wages paid by the employer from which the employe voluntarily terminated, if the employe is qualified to establish a benefit year under s. 108.06 (2) (a).

SECTION 9. 108.04 (7) (L) 1 of the statutes is amended to read:

108.04 (7) (L) 1. Offered average weekly wages at least equal to the average weekly wages that the employe earned in the most recently completed quarter in the terminated work;

SECTION 10. 108.04 (7) (m) and (n) of the statutes are created to read:

108.04 (7) (m) Paragraph (a) does not apply to an employe who terminates his or her work with a labor organization if the termination causes the employe to lose seniority rights granted under a collective bargaining agreement and if the termination results in the loss of the employe's employment with the employer which is a party to that collective bargaining agreement.

(n) Paragraph (a) does not apply to an employe who:

1. Terminated work in a position serving as a part-time elected or appointed member of a governmental body or representative of employes;

2. Was engaged in work for an employing unit other than the employing unit in which the employe served under subd. 1 at the time that the employe terminated work under subd. 1; and

3. Was paid wages in the terminated work constituting not more than 5% of the employe's base period wages for purposes of benefit entitlement.

SECTION 11. 108.04 (9) of the statutes is renumbered 108.04 (9) (a).

SECTION 12. 108.04 (9) (b) of the statutes is created to read:

108.05 (1) (a) (figure)

108.04 (9) (b) An offer of work is not less favorable under par. (a) 2. if the work is offered by an employer with which the employe has worked for any period after the beginning of the employe's base period and the hourly rate of pay offered by the employer is not less than the hourly rate of pay which the employe last earned with that employer, the total weekly hours offered by the employer are at least 90% of the hours worked by the employe after the beginning of the employe's base period with that employer, the shift offered is any shift that the employe has worked after the beginning of the employe's base period with that employer, and the work offered involves comparable duties to those that the employe performed after the beginning of the employe's base period for that employer.

SECTION 13. 108.04 (10) (b) of the statutes is amended to read:

108.04 (10) (b) An employe who did not establish a benefit year prior to commencement of a strike or other bona fide labor dispute, other than a lockout, may establish a benefit year after commencement of the dispute if the employe qualifies to establish a benefit year under s. 108.06 (2) (a), but the wages paid to the employe for employment prior to commencement of the dispute shall be excluded from the employe's base period wages under sub. (4) (a) and ss. 108.05 (1) and 108.06 (1) for any week in which the dispute is in active progress in the establishment in which the employe is or was employed.

SECTION 14. 108.04 (11) (a) of the statutes is amended to read:

108.04 (11) (a) If a claimant, in filing his or her application for benefits or claim for any week, conceals any part of his or her wages earned in or paid or payable for that week, or conceals his or her refusal within that week of a job offer or any other material fact relating to his or her eligibility for benefits, so much of any benefit payment as was paid because of such concealment shall be recovered by the department as an overpayment.

SECTION 15. 108.04 (12) (e) of the statutes is amended to read:

108.04 (12) (e) Any individual who receives a temporary total disability payment under ch. 102 or the federal longshoreman's and harbor workers' compensation act (33 USC 901 to 950) or a similar federal program unless precluded by federal law for a whole week shall be ineligible for benefits paid or payable for that same week under this chapter. A temporary total disability payment under those provisions received by an individual or a temporary partial disability payment under those provisions received by an individual for part of a week shall be treated as wages for purposes of eligibility for benefits for partial unemployment under s. 108.05 (3).

SECTION 16. 108.05 (1) (a) (figure) line 164 of the statutes, as affected by 1987 Wisconsin Act 255, is amended to read:

Line	Average Weekly Wage Class	Weekly	Benefit Rate
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164. 398.01 ~~or more to 400.00~~ 200

SECTION 17. 108.05 (1) (a) (figure) lines 165 to 189 of the statutes is created to read:

108.05 (1) (a) (figure)

Line	Average Weekly Wage Class	Weekly	Benefit Rate
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165.	400.01 to 402.00		201
166.	402.01 to 404.00		202
167.	404.01 to 406.00		203
168.	406.01 to 408.00		204
169.	408.01 to 410.00		205
170.	410.01 to 412.00		206
171.	412.01 to 414.00		207
172.	414.01 to 416.00		208
173.	416.01 to 418.00		209
174.	418.01 to 420.00		210
175.	420.01 to 422.00		211
176.	422.01 to 424.00		212
177.	424.01 to 426.00		213
178.	426.01 to 428.00		214
179.	428.01 to 430.00		215
180.	430.01 to 432.00		216
181.	432.01 to 434.00		217
182.	434.01 to 436.00		218
183.	436.01 to 438.00		219
184.	438.01 to 440.00		220
185.	440.01 to 442.00		221
186.	442.01 to 444.00		222
187.	444.01 to 446.00		223
188.	446.01 to 448.00		224
189.	448.01 or more		225

SECTION 18. 108.05 (1) (b) (figure) of the statutes, as affected by 1987 Wisconsin Act 255, is repealed and recreated to read:

Figure: 108.05 (1) (b)

Line	Highest Quarterly Wages Paid	Weekly	Benefit Rate
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1.	Under	\$1,050.00	\$ 0
2.	1,050.00 to 1,074.99		42
3.	1,075.00 to 1,099.99		43
4.	1,100.00 to 1,124.99		44
5.	1,125.00 to 1,149.99		45
6.	1,150.00 to 1,174.99		46

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7.	1,175.00 to 1,199.99	47
8.	1,200.00 to 1,224.99	48
9.	1,225.00 to 1,249.99	49
10.	1,250.00 to 1,274.99	50
11.	1,275.00 to 1,299.99	51
12.	1,300.00 to 1,324.99	52
13.	1,325.00 to 1,349.99	53
14.	1,350.00 to 1,374.99	54
15.	1,375.00 to 1,399.99	55
16.	1,400.00 to 1,424.99	56
17.	1,425.00 to 1,449.99	57
18.	1,450.00 to 1,474.99	58
19.	1,475.00 to 1,499.99	59
20.	1,500.00 to 1,524.99	60
21.	1,525.00 to 1,549.99	61
22.	1,550.00 to 1,574.99	62
23.	1,575.00 to 1,599.99	63
24.	1,600.00 to 1,624.99	64
25.	1,625.00 to 1,649.99	65
26.	1,650.00 to 1,674.99	66
27.	1,675.00 to 1,699.99	67
28.	1,700.00 to 1,724.99	68
29.	1,725.00 to 1,749.99	69
30.	1,750.00 to 1,774.99	70
31.	1,775.00 to 1,799.99	71
32.	1,800.00 to 1,824.99	72
33.	1,825.00 to 1,849.99	73
34.	1,850.00 to 1,874.99	74
35.	1,875.00 to 1,899.99	75
36.	1,900.00 to 1,924.99	76
37.	1,925.00 to 1,949.99	77
38.	1,950.00 to 1,974.99	78
39.	1,975.00 to 1,999.99	79
40.	2,000.00 to 2,024.99	80
41.	2,025.00 to 2,049.99	81
42.	2,050.00 to 2,074.99	82
43.	2,075.00 to 2,099.99	83
44.	2,100.00 to 2,124.99	84
45.	2,125.00 to 2,149.99	85
46.	2,150.00 to 2,174.99	86
47.	2,175.00 to 2,199.99	87
48.	2,200.00 to 2,224.99	88
49.	2,225.00 to 2,249.99	89
50.	2,250.00 to 2,274.99	90
51.	2,275.00 to 2,299.99	91
52.	2,300.00 to 2,324.99	92
53.	2,325.00 to 2,349.99	93
54.	2,350.00 to 2,374.99	94
55.	2,375.00 to 2,399.99	95
56.	2,400.00 to 2,424.99	96
57.	2,425.00 to 2,449.99	97
58.	2,450.00 to 2,474.99	98
59.	2,475.00 to 2,499.99	99
60.	2,500.00 to 2,524.99	100
61.	2,525.00 to 2,549.99	101
62.	2,550.00 to 2,574.99	102

63.	2,575.00 to 2,599.99	103
64.	2,600.00 to 2,624.99	104
65.	2,625.00 to 2,649.99	105
66.	2,650.00 to 2,674.99	106
67.	2,675.00 to 2,699.99	107
68.	2,700.00 to 2,724.99	108
69.	2,725.00 to 2,749.99	109
70.	2,750.00 to 2,774.99	110
71.	2,775.00 to 2,799.99	111
72.	2,800.00 to 2,824.99	112
73.	2,825.00 to 2,849.99	113
74.	2,850.00 to 2,874.99	114
75.	2,875.00 to 2,899.99	115
76.	2,900.00 to 2,924.99	116
77.	2,925.00 to 2,949.99	117
78.	2,950.00 to 2,974.99	118
79.	2,975.00 to 2,999.99	119
80.	3,000.00 to 3,024.99	120
81.	3,025.00 to 3,049.99	121
82.	3,050.00 to 3,074.99	122
83.	3,075.00 to 3,099.99	123
84.	3,100.00 to 3,124.99	124
85.	3,125.00 to 3,149.99	125
86.	3,150.00 to 3,174.99	126
87.	3,175.00 to 3,199.99	127
88.	3,200.00 to 3,224.99	128
89.	3,225.00 to 3,249.99	129
90.	3,250.00 to 3,274.99	130
91.	3,275.00 to 3,299.99	131
92.	3,300.00 to 3,324.99	132
93.	3,325.00 to 3,349.99	133
94.	3,350.00 to 3,374.99	134
95.	3,375.00 to 3,399.99	135
96.	3,400.00 to 3,424.99	136
97.	3,425.00 to 3,449.99	137
98.	3,450.00 to 3,474.99	138
99.	3,475.00 to 3,499.99	139
100.	3,500.00 to 3,524.99	140
101.	3,525.00 to 3,549.99	141
102.	3,550.00 to 3,574.99	142
103.	3,575.00 to 3,599.99	143
104.	3,600.00 to 3,624.99	144
105.	3,625.00 to 3,649.99	145
106.	3,650.00 to 3,674.99	146
107.	3,675.00 to 3,699.99	147
108.	3,700.00 to 3,724.99	148
109.	3,725.00 to 3,749.99	149
110.	3,750.00 to 3,774.99	150
111.	3,775.00 to 3,799.99	151
112.	3,800.00 to 3,824.99	152
113.	3,825.00 to 3,849.99	153
114.	3,850.00 to 3,874.99	154
115.	3,875.00 to 3,899.99	155
116.	3,900.00 to 3,924.99	156
117.	3,925.00 to 3,949.99	157
118.	3,950.00 to 3,974.99	158

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119.	3,975.00 to 3,999.99	159
120.	4,000.00 to 4,024.99	160
121.	4,025.00 to 4,049.99	161
122.	4,050.00 to 4,074.99	162
123.	4,075.00 to 4,099.99	163
124.	4,100.00 to 4,124.99	164
125.	4,125.00 to 4,149.99	165
126.	4,150.00 to 4,174.99	166
127.	4,175.00 to 4,199.99	167
128.	4,200.00 to 4,224.99	168
129.	4,225.00 to 4,249.99	169
130.	4,250.00 to 4,274.99	170
131.	4,275.00 to 4,299.99	171
132.	4,300.00 to 4,324.99	172
133.	4,325.00 to 4,349.99	173
134.	4,350.00 to 4,374.99	174
135.	4,375.00 to 4,399.99	175
136.	4,400.00 to 4,424.99	176
137.	4,425.00 to 4,449.99	177
138.	4,450.00 to 4,474.99	178
139.	4,475.00 to 4,499.99	179
140.	4,500.00 to 4,524.99	180
141.	4,525.00 to 4,549.99	181
142.	4,550.00 to 4,574.99	182
143.	4,575.00 to 4,599.99	183
144.	4,600.00 to 4,624.99	184
145.	4,625.00 to 4,649.99	185
146.	4,650.00 to 4,674.99	186
147.	4,675.00 to 4,699.99	187
148.	4,700.00 to 4,724.99	188
149.	4,725.00 to 4,749.99	189
150.	4,750.00 to 4,774.99	190
151.	4,775.00 to 4,799.99	191
152.	4,800.00 to 4,824.99	192
153.	4,825.00 to 4,849.99	193
154.	4,850.00 to 4,874.99	194
155.	4,875.00 to 4,899.99	195
156.	4,900.00 to 4,924.99	196
157.	4,925.00 to 4,949.99	197
158.	4,950.00 to 4,974.99	198
159.	4,975.00 to 4,999.99	199
160.	5,000.00 to 5,024.99	200
161.	5,025.00 to 5,049.99	201
162.	5,050.00 to 5,074.99	202
163.	5,075.00 to 5,099.99	203
164.	5,100.00 to 5,124.99	204
165.	5,125.00 to 5,149.99	205
166.	5,150.00 to 5,174.99	206
167.	5,175.00 to 5,199.99	207
168.	5,200.00 to 5,224.99	208
169.	5,225.00 to 5,249.99	209
170.	5,250.00 to 5,274.99	210
171.	5,275.00 to 5,299.99	211
172.	5,300.00 to 5,324.99	212
173.	5,325.00 to 5,349.99	213
174.	5,350.00 to 5,374.99	214

175. 5,375.00 to 5,399.99 215
 176. 5,400.00 to 5,424.99 216
 177. 5,425.00 to 5,449.99 217
 178. 5,450.00 to 5,474.99 218
 179. 5,475.00 to 5,499.99 219
 180. 5,500.00 to 5,524.99 220
 181. 5,525.00 to 5,549.99 221
 182. 5,550.00 to 5,574.99 222
 183. 5,575.00 to 5,599.99 223
 184. 5,600.00 to 5,624.99 224
 185. 5,625.00 and over 225

SECTION 19. 108.05 (3) of the statutes is renumbered 108.05 (3) (a) and amended to read:

108.05 (3) (a) ~~If Except as provided in par. (b), if an eligible employee earns wages in a given week, the first \$20 of the wages shall be disregarded and the employee's applicable weekly benefit payment shall be reduced by 67% of the remaining amount, except that no such employee is eligible for benefits if the employee's benefit payment would be less than \$5 for any week. In applying this paragraph, the department shall disregard discrepancies of less than \$2 between wages reported by employees and employers unless a violation of s. 108.04 (11) occurs.~~

SECTION 20. 108.05 (3) (b) of the statutes is created to read:

108.05 (3) (b) A claimant is ineligible to receive any benefits for a week if the claimant is engaged in employment with an employer from which the claimant was paid at least 80% of his or her base period wages and the claimant works for that employer at least 38 hours in that week at the same or a greater rate of pay, excluding bonuses, incentives, overtime or any other supplement to the earnings, as the claimant was paid by that employer in that quarter of the claimant's base period in which the claimant was paid his or her highest wages. This paragraph does not apply if the claimant is paid solely by way of commissions.

SECTION 21. 108.06 (2) (a) (intro.) and (d) of the statutes are amended to read:

108.06 (2) (a) (intro.) ~~An employee~~ A claimant may establish a benefit year by written request to the department, ~~filed in the manner that the department prescribes by rule,~~ whenever the ~~employee~~ claimant qualifies to start a benefit year under s. 108.04 (4) (a) and:

(d) A claimant may, in writing, request the department to set aside a benefit year. ~~If The department shall grant the request and cancel the benefit year if the request is voluntary, if no benefits have not been paid to the claimant in that benefit year and at the time the department acts upon the request and if for that benefit year the claimant's benefit eligibility is not suspended at the time the department acts upon the request, the department shall grant the request and cancel the claimant's benefit year. If the request is not voluntary, if benefits have been~~

~~paid to the claimant in that benefit year at the time the department acts upon the request or if the claimant's benefit eligibility is suspended at the time the department acts upon the request, the department shall deny the request. If the claimant does not meet these requirements, the department shall not set aside the benefit year unless the department defines by rule exceptional circumstances in which a claimant shall may be permitted to set aside a request to establish a benefit year and the claimant qualifies to make such a request under the circumstances described in the rule.~~

SECTION 22. 108.07 (3m) of the statutes is created to read:

108.07 (3m) If a claimant has base period wages with an employer constituting less than 5% of the claimant's total base period wages, the department shall not charge the benefits to the account of that employer. If benefits are otherwise chargeable to the account of any employer whose share of a claimant's total base period wages is less than 5%, the department shall charge the benefits to the remaining employers with which the claimant has base period wages. The department shall distribute such charges in the same proportion that the claimant's base period wages from such employers bear to the claimant's total base period wages from all such employers. This subsection does not apply to claims for benefits based in whole or in part on employment for the federal government under 5 USC 8501 to 8509, employment with the armed forces under 5 USC 8521 (a) (1), or work covered by the unemployment compensation laws of 2 or more jurisdictions under s. 108.14 (8n).

SECTION 23. 108.09 (2) (a) and (c), (2r) and (3) (b) of the statutes are amended to read:

108.09 (2) (a) The department shall promptly issue a computation setting forth the employee's potential benefit rights based on reports filed by an employer or employers under s. 108.205, or on the employee's statement and any other information then available. The results of the computation, a recomputation, or pertinent portion of either, shall be mailed to the last-known address of each party. The department may recompute an employee's potential benefit rights at any time on the basis of subsequent information or to correct a technical or

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clerical mistake, including an error of law, except that a party's failure to make specific written objection, received by the department within 14 days after the above mailing, as to a computation or recomputation is a waiver by such party of any objection thereto. Any objections to a computation which are not satisfactorily resolved by recomputation shall be resolved by a determination under par. (b).

(c) The department may set aside or amend a determination at any time within one year of the date of the determination on the basis of subsequent information or to correct a ~~technical or clerical~~ mistake, including an error of law, or at any time if the department finds that fraud or concealment occurred, unless a party has filed a timely request for hearing as to the determination.

(2r) HEARING REQUEST. Any party to a determination may request a hearing as to any matter in that determination if such request is made in accordance with procedure prescribed by the department and is received by the department or postmarked within 14 days after a copy of the determination was mailed or given to such party, whichever first occurs.

(3) (b) The appeal tribunal may affirm, reverse or modify the initial determination of the department or set aside the determination and remand the matter to the department for further proceedings, or may remand to the department for consideration of any issue not previously investigated by the department.

SECTION 24. 108.09 (4) (hm) of the statutes is created to read:

108.09 (4) (hm) Unless a party has filed a timely petition for review of the appeal tribunal decision by the commission, the appeal tribunal may, within one year after the date of the decision, reopen its decision if it has reason to believe that a party offered false evidence or a witness gave false testimony on an issue material to its decision. Thereafter, and after receiving additional evidence or taking additional testimony, the same or another appeal tribunal may set aside its original decision and make new findings and a decision.

SECTION 25. 108.09 (6) (a) of the statutes is amended to read:

108.09 (6) (a) The department or any party may petition the commission for review of an appeal tribunal decision, pursuant to commission rules, if such petition is received by the department or commission or post-marked within 21 days after the appeal tribunal decision was mailed to the party's last-known address. The commission shall dismiss any petition if not timely filed unless the petitioner shows probable good cause that the reason for having failed to file the petition timely was beyond the control of the petitioner. If the petition is not dismissed the commission may take action under par. (d).

SECTION 26. 108.10 (1) of the statutes is amended to read:

108.10 (1) The department shall investigate the status, and the existence and extent of liability of an employing unit, and may issue an initial determination accordingly. The department may set aside or amend the determination at any time prior to a hearing on the determination on the basis of subsequent information or to correct a mistake, including an error of law. The department shall mail a copy of each determination to the last-known address of the employing unit affected thereby. The employing unit may request a hearing as to any matter in that determination if the request is received by the department or postmarked within 21 days after the mailing and in accordance with such procedure as the department prescribes by rule.

SECTION 27. 108.10 (8) of the statutes is created to read:

108.10 (8) The department may settle any determination, decision or action involving a determination or decision issued under this section. The department may compromise any liability for contributions or reimbursement of benefits or interest or penalties assessed under this chapter. The department shall promulgate rules setting forth factors to be considered by the department in settling actions or proposed actions or making compromises under this subsection.

SECTION 28. 108.101 of the statutes is created to read:

108.101 Effect of finding, determination, decision or judgment. Any finding of fact or law, determination, decision or judgment made by the department, an appeal tribunal, the commission or any court with respect to rights or liabilities under this chapter is not admissible or binding in any separate action or proceeding between an employe and his or her present or previous employer involving an issue or factual dispute other than an issue or factual dispute that was contested in the finding, determination, decision or judgment brought before the department, an appeal tribunal, the commission or any court, regardless of whether the prior finding, determination, decision or judgment was between the same or related parties or involved the same facts.

SECTION 29. 108.14 (2m) of the statutes is amended to read:

108.14 (2m) In the discharge of their duties under this chapter an appeal tribunal, commissioner or other authorized representative of the department or commission may administer oaths to persons appearing before them, take depositions, certify to official acts, and by subpoenas, served in the manner in which circuit court subpoenas are served, compel attendance of witnesses and the production of books, papers, documents and records necessary or convenient to be used by them in connection with any investigation, hearing or other proceeding under this chapter. However, in any investigation, hearing or other proceeding involving the administration of oaths or the use of subpoenas under this subsection due notice

shall be given to any interested party involved, who shall be given an opportunity to appear and be heard at any such proceeding and to examine witnesses and otherwise participate therein. Witness fees and ~~other~~ travel expenses involved in proceedings under this chapter, ~~including a party's traveling expenses,~~ may be allowed by the appeal tribunal or representative of the department at rates specified by department rules, and shall be paid from the administrative account.

SECTION 30. 108.151 (4) (a) 2. of the statutes is amended to read:

108.151 (4) (a) 2. Any assurance shall be in force for 2 calendar years, and shall remain in force until the liability is released by the fund's treasurer. Any required increase in the assurance amount as a result of a redetermination under subd. 1 shall be filed by December 31 preceding the calendar year to which it applies.

SECTION 31. 108.16 (8) (c) 1. of the statutes is amended to read:

108.16 (8) (c) 1. The transferee is a legal representative, ~~debtor in possession~~ or trustee in bankruptcy or receiver or trustee of a person, partnership, association or corporation, or guardian of the estate of a person, or legal representative of a deceased person.

SECTION 32. 108.16 (8) (cm) of the statutes is created to read:

108.16 (8) (cm) The filing of a voluntary petition in bankruptcy by an employer or the filing of an involuntary petition in bankruptcy against an employer under 11 USC 1101 to 1330 or the confirmation of a plan under 11 USC 1101 to 1330 does not render the employer filing the petition or against whom the petition is filed a successor under par. (c).

SECTION 33. 108.16 (8) (f) and (10m) of the statutes are amended to read:

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

(10m) The Except as provided in s. 108.17 (3m), the department shall not pay any interest on any benefit payment or any refund, or collect any interest on any benefit overpayment.

SECTION 34. 108.17 (3) of the statutes is amended to read:

108.17 (3) If an employing unit makes application to the department to adjust an alleged overpayment by the employer of contributions or interest under this chapter, and files such an application within 3 years after the close of the calendar year in which such payment was made, the department shall make a determination under s. 108.10 as to the existence and extent of any such overpayment, and said section shall apply to such determination. ~~As to~~ Except as provided in sub. (3m), the department shall allow an employer a credit for any amount determined under s. 108.10 to have been erroneously paid by the employer, ~~the department shall allow the employer a corresponding credit,~~ without interest, against its future contribution payments; or, if the department finds it impracticable to allow the given employer such a credit, it shall refund such overpayment to the employer, without interest, from the fund or the administrative account, as the case may be.

SECTION 35. 108.17 (3m) of the statutes is created to read:

108.17 (3m) If an appeal tribunal or the commission issues a decision under s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is determined that an amount has been erroneously paid by an employer, the department shall, from the administrative account, credit the employer with interest at the rate of 0.75% per month or fraction thereof on the amount of the erroneous payment. Interest shall accrue from the month which the erroneous payment was made until the month in which it is either used as a credit against future contributions or refunded to the employer.

SECTION 36. 108.17 (5) and (6) of the statutes are created to read:

108.17 (5) Upon application of an employer, the department may permit employers which are component members of a controlled group of corporations under 26 USC 1563 to combine wages of a single employe for purposes of determining the employers' payroll under s. 108.02 (21) (b) if the employe is subject to transfer between the employers under the terms of a single collective bargaining agreement. The application shall specify the calendar year in which the combination is proposed to occur. This subsection does not apply to any employer for which the department has written off overdrafts under s. 108.16 (7) (c) within the 2 calendar years preceding the year in which the combination is proposed to occur, nor to any employer whose account is overdrawn by 6% or more on the computation date for the calendar year preceding the year in which the combination is proposed to occur. If the department approves the application, the department shall specify the calendar year in which the combination is effective and the method by which the component members will report the payroll of the employe to the department.

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(6) If the department determines that a trustee paying wage claims for an employer in a state or federal liquidation proceeding in which priority is given to specified wage claims has insufficient funds to pay all wage claims given priority, and contributions on the wage claims given priority, in full, the department may accept less than the full amount of contributions owed by the employer on those wage claims.

SECTION 37. 108.18 (3m) of the statutes is created to read:

108.18 (3m) APPLICATION OF SCHEDULES. For purposes of subs. (4) and (9):

(a) "Schedule A" is in effect for any calendar year whenever, as of the preceding June 30, the fund has a cash balance of less than \$300,000,000.

(b) "Schedule B" is in effect for any calendar year whenever, as of the preceding June 30, the fund has a cash balance of at least \$300,000,000 but less than \$1,000,000,000.

(c) "Schedule C" is in effect for any calendar year whenever, as of the preceding June 30, the fund has a cash balance of at least \$1,000,000,000.

SECTION 38. 108.18 (4) (figure) of the statutes is repealed and recreated to read:

Figure: 108.18 (4)

Line	Reserve Percentage	Contribution Rate
Schedule A		
1.	15.0% or more	0.27
2.	At least 10.0% but under 15.0%	0.27
3.	At least 9.5% but under 10.0%	0.45
4.	At least 9.0% but under 9.5%	0.53
5.	At least 8.5% but under 9.0%	0.72
6.	At least 8.0% but under 8.5%	0.79
7.	At least 7.5% but under 8.0%	0.86
8.	At least 7.0% but under 7.5%	0.97
9.	At least 6.5% but under 7.0%	1.23
10.	At least 6.0% but under 6.5%	1.48
11.	At least 5.5% but under 6.0%	1.82
12.	At least 5.0% but under 5.5%	2.16
13.	At least 4.5% but under 5.0%	2.50
14.	At least 4.0% but under 4.5%	2.84
15.	At least 3.5% but under 4.0%	3.18
16.	At least 0 but under 3.5%	3.57
17.	Overdrawn by less than 1.0%	5.70
18.	Overdrawn by at least 1.0% but under 2.0%	6.20
19.	Overdrawn by at least 2.0% but under 3.0%	6.70
20.	Overdrawn by at least 3.0% but under 4.0%	7.20
21.	Overdrawn by at least 4.0% but under 5.0%	7.70
22.	Overdrawn by at least 5.0% but under 6.0%	8.20
23.	Overdrawn by 6.0% or more	8.90
Schedule B		
1.	15.0% or more	0.00
2.	At least 10.0% but under 15.0%	0.20
3.	At least 9.5% but under 10.0%	0.35
4.	At least 9.0% but under 9.5%	0.45
5.	At least 8.5% but under 9.0%	0.65
6.	At least 8.0% but under 8.5%	0.80
7.	At least 7.5% but under 8.0%	0.90
8.	At least 7.0% but under 7.5%	1.05
9.	At least 6.5% but under 7.0%	1.30
10.	At least 6.0% but under 6.5%	1.60
11.	At least 5.5% but under 6.0%	1.95
12.	At least 5.0% but under 5.5%	2.30

13. At least 4.5% but under 5.0%	2.65
14. At least 4.0% but under 4.5%	3.00
15. At least 3.5% but under 4.0%	3.45
16. At least 0 but under 3.5%	4.00
17. Overdrawn by less than 1.0%	5.70
18. Overdrawn by at least 1.0% but under 2.0%	6.20
19. Overdrawn by at least 2.0% but under 3.0%	6.70
20. Overdrawn by at least 3.0% but under 4.0%	7.20
21. Overdrawn by at least 4.0% but under 5.0%	7.70
22. Overdrawn by at least 5.0% but under 6.0%	8.20
23. Overdrawn by 6.0% or more	8.90

Schedule C

1. 15.0% or more	0.00
2. At least 10.0% but under 15.0%	0.20
3. At least 9.5% but under 10.0%	0.35
4. At least 9.0% but under 9.5%	0.45
5. At least 8.5% but under 9.0%	0.65
6. At least 8.0% but under 8.5%	0.80
7. At least 7.5% but under 8.0%	0.90
8. At least 7.0% but under 7.5%	1.05
9. At least 6.5% but under 7.0%	1.30
10. At least 6.0% but under 6.5%	1.60
11. At least 5.5% but under 6.0%	1.95
12. At least 5.0% but under 5.5%	2.30
13. At least 4.5% but under 5.0%	2.65
14. At least 4.0% but under 4.5%	3.00
15. At least 3.5% but under 4.0%	3.45
16. At least 0 but under 3.5%	4.00
17. Overdrawn by less than 1.0%	5.70
18. Overdrawn by at least 1.0% but under 2.0%	6.20
19. Overdrawn by at least 2.0% but under 3.0%	6.70
20. Overdrawn by at least 3.0% but under 4.0%	7.20
21. Overdrawn by at least 4.0% but under 5.0%	7.70
22. Overdrawn by at least 5.0% but under 6.0%	8.20
23. Overdrawn by 6.0% or more	8.90

SECTION 39. 108.18 (4m) of the statutes is repealed. repealed and recreated to read:

SECTION 40. 108.18 (9) (figure) of the statutes is

Figure: 108.18 (9)

Schedule A

Line	Employers with payroll under \$300,000		Employers with payroll of \$300,000 or more	
	Contribution Rate	Solvency Rate	Contribution Rate	Solvency Rate
1.	0.27	0.00	0.27	0.43
2.	0.27	0.00	0.27	0.43
3.	0.45	0.00	0.45	0.60
4.	0.53	0.00	0.53	0.70
5.	0.72	0.20	0.72	0.70
6.	0.79	0.30	0.79	0.80
7.	0.86	0.40	0.86	0.90

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8.	0.97	0.50	0.97	1.00
9.	1.23	0.60	1.23	1.00
10.	1.48	0.70	1.48	1.10
11.	1.82	0.80	1.82	1.20
12.	2.16	0.90	2.16	1.30
13.	2.50	0.90	2.50	1.40
14.	2.70	0.90	2.70	1.40
15.	2.84	1.00	2.84	1.50
16.	3.18	1.10	3.18	1.60
17.	3.57	1.20	3.57	1.70
18.	5.70	0.90	5.70	0.90
19.	6.20	0.90	6.20	0.90
20.	6.70	0.90	6.70	0.90
21.	7.20	0.90	7.20	0.90
22.	7.70	0.90	7.70	0.90
23.	8.20	0.90	8.20	0.90
24.	8.90	0.90	8.90	0.90

Schedule B

Line	Employers with payroll under \$300,000		Employers with payroll of \$300,000 or more	
	Contribution Rate	Solvency Rate	Contribution Rate	Solvency Rate
1.	0.00	0.05	0.00	0.10
2.	0.20	0.05	0.20	0.10
3.	0.35	0.05	0.35	0.15
4.	0.45	0.05	0.45	0.20
5.	0.65	0.20	0.65	0.30
6.	0.80	0.20	0.80	0.35
7.	0.90	0.20	0.90	0.40
8.	1.05	0.25	1.05	0.45
9.	1.30	0.30	1.30	0.50
10.	1.60	0.35	1.60	0.55
11.	1.95	0.45	1.95	0.60
12.	2.30	0.50	2.30	0.65
13.	2.65	0.55	2.65	0.70
14.	2.70	0.55	2.70	0.70
15.	3.00	0.60	3.00	0.70
16.	3.45	0.65	3.45	0.70
17.	4.00	0.65	4.00	0.70
18.	5.70	0.90	5.70	0.90
19.	6.20	0.90	6.20	0.90
20.	6.70	0.90	6.70	0.90
21.	7.20	0.90	7.20	0.90
22.	7.70	0.90	7.70	0.90
23.	8.20	0.90	8.20	0.90
24.	8.90	0.90	8.90	0.90

Schedule C

Line	Employers with payroll under \$300,000		Employers with payroll of \$300,000 or more	
	Contribution Rate	Solvency Rate	Contribution Rate	Solvency Rate
1.	0.00	0.02	0.00	0.05
2.	0.20	0.02	0.20	0.05

3.	0.35	0.02	0.35	0.05
4.	0.45	0.02	0.45	0.05
5.	0.65	0.10	0.65	0.15
6.	0.80	0.10	0.80	0.20
7.	0.90	0.10	0.90	0.25
8.	1.05	0.15	1.05	0.30
9.	1.30	0.15	1.30	0.35
10.	1.60	0.20	1.60	0.40
11.	1.95	0.25	1.95	0.45
12.	2.30	0.30	2.30	0.50
13.	2.65	0.35	2.65	0.55
14.	2.70	0.35	2.70	0.55
15.	3.00	0.40	3.00	0.55
16.	3.45	0.40	3.45	0.55
17.	4.00	0.40	4.00	0.55
18.	5.70	0.70	5.70	0.70
19.	6.20	0.70	6.20	0.70
20.	6.70	0.70	6.70	0.70
21.	7.20	0.70	7.20	0.70
22.	7.70	0.80	7.70	0.80
23.	8.20	0.85	8.20	0.85
24.	8.90	0.85	8.90	0.85

SECTION 41. 108.18 (9s) and (9t) of the statutes are repealed.

SECTION 42. 108.20 (2m) of the statutes is amended to read:

108.20 (2m) From the moneys not appropriated under s. 20.445 (1) (ge) and (gf) which are received by the administrative account as interest and penalties under this chapter, the department shall pay the benefits chargeable to the administrative account under s. 108.07 (5) and the interest payable to employers under s. 108.17 (3m) and may pay interest due on advances to the unemployment reserve fund from the federal unemployment account under title XII of the social security act, 42 USC 1321 to 1324, may make payments to satisfy a federal audit exception concerning a payment from the fund or any federal aid disallowance involving the unemployment compensation program, or may make payments to the fund if such action is necessary to obtain a lower interest rate or deferral of interest payments on advances from the federal unemployment account under title XII of the social security act, except that any interest earned pending disbursement of federal employment security grants under s. 20.445 (1) (n) shall be credited to the general fund. Any moneys reverting to the administrative account from the appropriations under s. 20.445 (1) (ge) and (gf) shall be utilized as provided in this subsection.

SECTION 43. 108.22 (title) of the statutes is amended to read:

108.22 (title) Timely reports, notices and payments.

SECTION 44. 108.22 (1) (e) and (f) of the statutes are created to read:

108.22 (1) (e) Any notice filed under s. 108.15 (3) (a) or (b) or 108.151 (3) (a) or assurance filed under s. 108.151 (2) (a) or (4) (a) 2. is timely if it is received by the department by December 31 or, if mailed, is either postmarked no later than that due date or is received by the department no later than 3 days after that due date.

(f) Any notice of assurance filed under s. 108.151 (2) (c) is timely if it is received by the department by its due date or, if mailed, is either postmarked no later than that due date or is received by the department no later than 3 days after that due date.

SECTION 45. 108.225 of the statutes is created to read:

108.225 Levy for delinquent contributions or benefit overpayments. (1) DEFINITIONS. In this section:

(a) “Contributions” include interest for nontimely payment and any penalties assessed by the department under this chapter.

(b) “Debt” means a delinquent contribution or benefit overpayment.

(c) “Debtor” means a person who owes the department delinquent contributions or a benefit overpayment.

(d) “Disposable earnings” means that part of the earnings of any individual after the deduction from those earnings of any amounts required by law to be withheld, any life, health, dental or similar type of insurance premiums, union dues, any amount necessary to comply with a court order to contribute to the support of minor children, and any levy, wage assignment or garnishment executed prior to the date of a levy under this section.

(e) “Federal minimum hourly wage” means that wage prescribed by 29 USC 206 (a) (1).

(f) “Levy” means all powers of distraint and seizure.

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(g) “Property” includes all tangible and intangible personal property and rights to such property, including compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, periodic payments received pursuant to a pension or retirement program, rents, proceeds of insurance and contract payments.

(2) **POWERS OF LEVY AND DISTRRAINT.** If any debtor who is liable for any debt neglects or refuses to pay that debt after the department has made demand for payment, the department may collect that debt and the expenses of the levy by levy upon any property belonging to the debtor. Whenever the value of any property that has been levied upon under this section is not sufficient to satisfy the claim of the department, the department may levy upon any additional property of the debtor until the debt and expenses of the levy are fully paid.

(3) **DUTIES TO SURRENDER.** Any person in possession of or obligated with respect to property or rights to property that is subject to levy and upon which a levy has been made shall, upon demand of the department, surrender the property or rights or discharge the obligation to the department, except that part of the property or rights which is, at the time of the demand, subject to any prior attachment or execution under any judicial process.

(4) **FAILURE TO SURRENDER; ENFORCEMENT OF LEVY.**
(a) Any debtor who fails or refuses to surrender any property or rights to property that is subject to levy, upon demand by the department, is subject to proceedings to enforce the amount of the levy.

(b) Any 3rd party who fails to surrender any property or rights to property subject to levy, upon demand of the department, is subject to proceedings to enforce the levy. The 3rd party is not liable to the department under this paragraph for more than 25% of the debt. The department shall serve a final demand as provided under sub. (13) on any 3rd party who fails to surrender property. Proceedings shall not be initiated by the department until 5 days after service of the final demand. The department shall issue a determination under s. 108.10 to the 3rd party for the amount of the liability.

(c) When a 3rd party surrenders the property or rights to the property on demand of the department or discharges the obligation to the department for which the levy is made, the 3rd party is discharged from any obligation or liability to the debtor with respect to the property or rights to the property arising from the surrender or payment to the department.

(5) **ACTIONS AGAINST THIS STATE.** (a) If the department has levied upon property, any person, other than the debtor who is liable to pay the debt out of which the levy arose, who claims an interest in or lien on that property and claims that that property was wrongfully levied upon may bring a civil action against the state in the circuit court for Dane county. That action may be brought whether or not that property has been surrendered to the

department. The court may grant only the relief under par. (b). No other action to question the validity of or restrain or enjoin a levy by the department may be maintained.

(b) In an action under par. (a), if a levy would irreparably injure rights to property, the court may enjoin the enforcement of that levy. If the court determines that the property has been wrongfully levied upon, it may grant a judgment for the amount of money obtained by levy.

(c) For purposes of an adjudication under this subsection, the determination of the debt upon which the interest or lien of the department is based is conclusively presumed to be valid.

(6) **DETERMINATION OF EXPENSES.** The department shall determine its costs and expenses to be paid in all cases of levy.

(7) **USE OF PROCEEDS.** (a) The department shall apply all money obtained under this section first against the expenses of the proceedings and then against the liability in respect to which the levy was made and any other liability owed to the department by the debtor.

(b) The department may refund or credit any amount left after the applications under par. (a), upon submission of a claim therefor and satisfactory proof of the claim, to the person entitled to that amount.

(8) **RELEASE OF LEVY.** The department may release the levy upon all or part of property levied upon to facilitate the collection of the liability or to grant relief from a wrongful levy, but that release does not prevent any later levy.

(9) **WRONGFUL LEVY.** If the department determines that property has been wrongfully levied upon, the department may return the property at any time, or may return an amount of money equal to the amount of money levied upon.

(10) **PRESERVATION OF REMEDIES.** The availability of the remedy under this section does not abridge the right of the department to pursue other remedies.

(11) **EVASION.** Any person who removes, deposits or conceals or aids in removing, depositing or concealing any property upon which a levy is authorized under this section with intent to evade or defeat the assessment or collection of any debt may be fined not more than \$5,000 or imprisoned for not more than 3 years or both, and shall be liable to the state for the costs of prosecution.

(12) **NOTICE BEFORE LEVY.** If no appeal or other proceeding for review permitted by law is pending and the time for taking an appeal or petitioning for review has expired, the department shall make a demand to the debtor for payment of the debt which is subject to levy and give notice that the department may pursue legal action for collection of the debt against the debtor. The department shall make the demand for payment and give the notice at least 10 days prior to the levy, personally or by any type of mail service which requires a signature of acceptance, at the address of the debtor as it appears on

the records of the department. The demand for payment and notice shall include a statement of the amount of the debt, including interest and penalties, and the name of the debtor who is liable for the debt. The debtor's refusal or failure to accept or receive the notice does not prevent the department from making the levy. Notice prior to levy is not required for a subsequent levy on any debt of the same debtor within one year of the date of service of the original levy.

(13) SERVICE OF LEVY. (a) The department shall serve the levy upon the debtor and 3rd party by personal service or by any type of mail service which requires a signature of acceptance.

(b) Personal service shall be made upon an individual, other than a minor or incapacitated person, by delivering a copy of the levy to the debtor or 3rd party personally; by leaving a copy of the levy at the debtor's dwelling or usual place of abode with some person of suitable age and discretion residing there; by leaving a copy of the levy at the business establishment with an officer or employe of the establishment; or by delivering a copy of the levy to an agent authorized by law to receive service of process.

(c) The department representative who serves the levy shall certify service of process on the notice of levy form and the person served shall acknowledge receipt of the certification by signing and dating it. If service is made by mail, the return receipt is the certificate of service of the levy.

(d) The debtor's or 3rd party's failure to accept or receive service of the levy does not invalidate the levy.

(14) ANSWER BY 3RD PARTY. Within 20 days after the service of the levy upon a 3rd party, the 3rd party shall file an answer with the department stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the debtor, including a description of the property or the rights to property and the nature and dollar amount of any such obligation.

(15) DURATION OF LEVY. A levy is effective from the date on which the levy is first served on the 3rd party until the liability out of which the levy arose is satisfied, until the levy is released or until one year from the date of service, whichever occurs first.

(16) WAGES EXEMPT FROM LEVY. In the case of benefit overpayments, the debtor is entitled to an exemption from levy of the greater of the following:

(a) A subsistence allowance of 75% of the debtor's disposable earnings then due and owing;

(b) An amount equal to 30 times the federal minimum hourly wage for each full week of the debtor's pay period; or

(c) In the case of earnings for a period other than a week, a subsistence allowance computed so that it is equivalent to that provided in par. (b) using a multiple of

the federal minimum hourly wage prescribed by rule of the department.

(17) EXEMPTIONS. The first \$1,000 of an account in a depository institution is exempt from any levy to recover a benefit overpayment. No other property is exempt from levy except as provided in sub. (16).

(18) RESTRICTION ON EMPLOYMENT PENALTIES BY REASON OF LEVY. No employer may discharge or otherwise discriminate with respect to the terms and conditions of employment against any employe by reason of the fact that his or her earnings have been subject to levy for any one levy or because of compliance with any provision of this section. Whoever wilfully violates this subsection may be fined not more than \$1,000 or imprisoned for not more than one year or both.

(19) APPEAL. Any debtor who is subject to a levy proceeding made by the department has the right to appeal the levy proceeding under s. 108.10. The appeal is limited to questions of prior payment of the debt that the department is proceeding against, and mistaken identity of the debtor. The levy is not stayed pending an appeal in any case where property is secured through the levy.

(20) COST OF LEVY. Any 3rd party is entitled to a levy fee of \$5 for each levy in any case where property is secured through the levy. The 3rd party shall deduct the fee from the proceeds of the levy.

SECTION 46. Initial applicability. (1) The treatment of sections 108.02 (4m), 108.04 (4) (a), (7) (a), (m) and (n), (9) and (12) (e) and 108.05 (3) of the statutes and the creation of sections 108.04 (9) (b) and 108.05 (3) (b) of the statutes apply to new claims filed for unemployment compensation benefits effective beginning on December 31, 1989.

(2) The treatment of sections 108.02 (21) (b), 108.17 (5) and 108.18 (4) (figure), (4m) and (9) (figure) of the statutes applies with respect to payrolls beginning on January 1, 1990.

(3) The treatment of section 108.05 (1) (a) (figure) line 164 and (b) (figure) of the statutes and the creation of section 108.05 (1) (a) (figure) lines 165 to 189 of the statutes apply to weeks of unemployment commencing on or after December 31, 1989.

(4) The treatment of section 108.07 (3m) of the statutes applies to charges made to the employer accounts on or after December 31, 1989, for benefit years beginning on or after December 31, 1989.

(5) The treatment of section 108.09 (2) (a) of the statutes applies to initial computations issued on or after the effective date of this subsection.

(6) The treatment of section 108.09 (2) (c) of the statutes applies to initial determinations issued on or after the effective date of this subsection.

(7) The treatment of sections 108.09 (2r), (4) (hm) and (6) (a), 108.10 (1) and 108.101 of the statutes applies

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to determinations and decisions issued on or after the effective date of this subsection.

(8) The treatment of section 108.17 (3m) of the statutes applies to decisions which become final on or after the effective date of this subsection.

SECTION 47. Effective dates. This act takes effect on the 4th Sunday after publication, except as follows:

(1) The treatment of sections 46.27 (5) (i) and 108.02 (13) (k) of the statutes takes effect on January 1, 1990.
