

2001 DRAFTING REQUEST

Bill

Received: 09/26/2000

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-8219

By/Representing: Blaine

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters: rmarchan

Subject: Dom. Rel. - child support

Extra Copies:

Pre Topic:

DOA:.....Blaine -

Topic:

Using unclaimed child support funds for administering child support program

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 11/03/2000 kahlepj 01/05/2001 rmarchan 01/06/2001 kahlepj 01/07/2001	wjackson 01/08/2001		_____			State
/1	rmarchan 02/06/2001	wjackson 02/06/2001	jfrantze 01/08/2001	_____	lrb_docadmin 01/09/2001		State

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/2
pgreensl _____ lrb_docadmin
02/06/2001 _____ 02/06/2001

FE Sent For:

<END>

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	rmarchan 01/06/2001			RF/P6			
	kahlepj 01/07/2001			_____			
/1			jfrantze 01/08/2001	_____	lrb_docadmin 01/09/2001		

2/6 p8

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1/1	kahlepj	1 wlj 1/8	26/1/8	26/1/8			

FE Sent For:

<END>

RJM

STATUTORY MODIFICATIONS

Department of Workforce Development
2001-2003 Biennial Budget Request

DIN Number: 5601-STAT#2

Topic: Create Authority for DWD to use revenue in the Support Collections Trust Fund that is attributable to holding the amounts of "stale-dated" checks, and create a statutory exemption from the abandoned property statute for support collections that cannot be paid out due to circumstances such as not having the address of the payee.

20.445(3)(g)+(r)

Description of Change:

Two different circumstances of undistributed support collections need to be addressed, stale-dated checks, and cases in which no check or payment is issued because, for example, the address of the person entitled to the payment is unknown.

Stale-dated checks are governed by s.20.912. It provides that, if any check drawn and issued upon the funds of the state in any state depository is not paid within the time period shown on the check, the check must be cancelled and the amount credited to the fund on which it is drawn. Checks issued by the Wisconsin Support Collections Trust Fund are drawn from the fund defined under s.25.68. Currently any stale-dated checks drawn from this fund would be returned to this fund; however, no specific statutory authority exists to use the balance for anything else. The checks must be retained for later payout to the payee until they become subject to the abandoned property statute and are deposited in the common school fund. DWD proposes that a new provision be created, such as under s.49.854 (11), s.25.68, or s.20.912, so that the Department shall retain any unclaimed child support for child-support program purposes. The provision should provide for notice to be sent by regular mail to the payee's last known address and for a one-year period from the receipt of the funds to when the funds are declared abandoned or unclaimed. In addition, provide authority for the Department to maintain a cash balance consistent with appropriate accounting practices from which to satisfy any claims for check re-issuance. Provide that payees must present a claim to the Department for funds within five years after the time they are declared or unclaimed.

all money or sum sufficient equal to...

Am 177.13
CR 49.859
unclaimed proceeds
Am 20.445(3g)
+ (3r)

? then what happens?

from?
what source?

why need this?

abandoned
2016
yes?

Stale-dated checks are treated differently than cases in which no check is ever issued because, for example, the address of the payee is unknown. Undistributed or unclaimed support collections of this type become, under current law, abandoned property under Chapter 177 and must be delivered to the State

Treasurer for deposit in the common school fund. DWD proposes that s.177.13 be amended to exempt unclaimed child support from the chapter. Provide for these moneys to be available to the Department for child-support program purposes under the provisions proposed above to provide a reasonable time in which the payee may present a claim for the funds.

forever?

Justification:

The justification for these changes is twofold: First, the federal Office of Child Support considers undistributed child-support collections to be program income available for child-support program administration and deducts them from reimbursement from the state, even though they are not currently available for child-support program administration under Wisconsin law. Second, in the absence of GPR funding increases, additional revenues are needed to fund the increasing cost to administer DWD's child-support responsibilities.

Kahler, Pam

From: Marchant, Robert
Sent: Wednesday, December 06, 2000 12:14 PM
To: Blaine, Robert
Cc: Kahler, Pam
Subject: RE: escheat

Robert--

Although there is no way to predict how the court would rule on the issue, it appears from the most recent caselaw that the concept of "escheat" covers more than the forfeiture of the property of a person who dies without heirs. In *Employers Ins. of Wausau v. Smith*, 154 Wis. 2d 199, 205-206 (1990), the court noted that the Uniform Unclaimed Property Act, from which our current ch. 177 is derived, is a modern "escheat statute." As you know, ch. 177 covers abandoned or unclaimed property. Section 177.41 actually refers to "the escheat of abandoned or unclaimed property." Thus, there is good reason to think the court would interpret the term "escheat", as it is used in Art. 10 Sec. 2 of the Constitution, to include abandoned or unclaimed property.

There is also an Attorney General's opinion from April 21, 1972, that is on-point. In that opinion, the Attorney General reviewed the constitutionality of a provision that required certain unclaimed funds to be deposited in the general fund and distributed to the Department of Employee Trust Funds. The Attorney General advised that Art. 10 Sec. 2 of the Constitution requires the funds to be deposited in the school fund. The opinion includes a citation to *Estate of Payne*, 208 Wis. 142, 145 (1932), where the court stated that this provision of the Constitution is to be interpreted broadly so as to "throw everything possible into the school fund." The Attorney General also noted that the modern understanding of the concept of "escheat" covers more than just the forfeiture of the property of a person who dies without heirs.

Even if the concept of "escheat" is limited to cover only the property of a person who dies without heirs, this section of the Constitution also requires all money that accrues to the state *by forfeiture* to be deposited in the school fund. This term is not defined in the Constitution. Although it is possible to argue that the term "forfeiture" refers only to civil monetary penalties, the term may also be more broadly understood to include any money other than a criminal fine that, under statute, is required to be paid to the state. This broader understanding would include unclaimed or abandoned money that is "forfeited" or "lost" to the state because of error, neglect, or inadvertence, as is the unclaimed child support. This understanding is probably more consistent with the meaning of the constitutional provision because, without this understanding, the constitutional provision would not apply to abandoned bank accounts. It is likely that the court would interpret Art. 10 Sec. 2 to require abandoned bank accounts to be "thrown into the school fund."

As I noted earlier, there are arguments on all sides of these issues and the court may rule either way if it is ever presented with the case. Please feel free to call or email me if you have any further questions.

Robert J. Marchant

Legislative Attorney
State of Wisconsin Legislative Reference Bureau
robert.marchant@legis.state.wi.us

-----Original Message-----

From: Blaine, Robert
Sent: Tuesday, December 05, 2000 4:30 PM
To: Marchant, Robert
Cc: Kahler, Pam
Subject: escheat

Rob --

Would it be too much trouble for you to dig out the case you found with the broader definition of escheat? Was this a Wisconsin case? I've had some folks asking for the citation.

Robert Blaine

State Budget Office
Wisconsin Department of Administration

Kahler, Pam

From: Blaine, Robert
Sent: Tuesday, December 05, 2000 3:39 PM
To: Kahler, Pam; Marchant, Robert
Subject: FW: DWD proposal re unclaimed child support funds

This is DWD's argument for the constitutionality of the child support provision. They basically argue that the definition of "escheat" does not apply to abandoned property. In my notes, I saw that you found a recent court interpretation which suggests "escheat" is property that "did not go to where it was intended." DWD, apparently, did not find this interpretation.

Just thought you would want to be aware.

-----Original Message-----

From: Bernstein, Howard
Sent: Tuesday, December 05, 2000 3:08 PM
To: Colantani, Mary
Cc: Pfeiffer, Susan; Chesnik, Constance; Blaine, Robert; Smith, Thomas K - DWD BUDGET; Mansfield, Mark
Subject: DWD proposal re unclaimed child support funds



Unclaimed CS \$
120500.doc

InterOffice Memo

Department of Workforce Development

Date: December 5, 2000

To: Mary Celentani
Office of State Treasurer

From: Howard Bernstein
DWD Legal Counsel (266-9427)

Subject: **Need for Legislation Concerning
Unclaimed Child Support Payments**

The Department of Workforce Development has proposed legislation which would either amend ch. 177, Stats., or in some other way authorize DWD's Bureau of Child Support to retain unclaimed child support funds rather than transfer such funds to the Office of State Treasurer as unclaimed funds.

This legislation is needed to ensure that the state continues to receive the maximum possible amount of federal child support funding, because the federal child support office treats unclaimed child support payments as program income which is available to the state child support agency to offset expenses.

This proposed legislation would not be in conflict with Article 10, Section 2 of the Wisconsin Constitution.

Federal treatment of unclaimed child support funds.

Because of the federal treatment of these funds as program revenue, the amount of unclaimed child support funds is deducted from the state budget total before the federal matching share is computed. In other words, the system of federal funding assumes that the state will have these funds available for use as program revenue.

Wisconsin Constitution

Article 10, Section 2 of the Wisconsin Constitution provides that the School Fund shall receive, among other items, "all moneys and the clear proceeds of all property that may accrue to the state by forfeiture or escheat." The constitution does not provide a definition of the term "escheat;" the standard legal definition of "escheat" is "the forfeit of all property to the state when a person dies without heirs." This language does not cover unclaimed funds and the change that DWD is proposing to ch. 177, Stats., does not have therefore have any constitutional aspect.

cc: Robert Blaine, DOA Budget Office
Tom Smith, DWD Budget
Mark Mansfield, DWD Budget
Sue Pfeiffer
Connie Chesnik

Kahler, Pam

From: Kahler, Pam
Sent: Monday, October 09, 2000 2:08 PM
To: Blaine, Robert
Cc: Marchant, Robert
Subject: RE: stale-dated checks proposal

Hello, Robert:

Yes, indeed. Under article X, section 2 of the state constitution, "all moneys ... that may accrue to the state by forfeiture or escheat ... shall be set apart as a separate fund to be called "the school fund"." Jenny is right! It seems that, if the stale-dated checks and the child support payments that cannot be distributed are considered to be forfeited to the state (which it certainly does), that money could not be used for DWD's administrative expenses no matter what the procedure is. There is still the problem for DWD, though, that the feds consider the forfeited money to be revenue to DWD. I had a thought that maybe we could appropriate to DWD, from the general fund, a sum sufficient equal to the forfeited amount for administrative costs. Although you may not like that idea! Also, would the feds then consider that appropriation to be revenue, too? Rob and I will have to do some checking on the constitutionality issue and get back to you. If you have any other thoughts in the meantime, let us know. Thanks.

Pam

-----Original Message-----

From: Blaine, Robert
Sent: Monday, October 09, 2000 1:36 PM
To: Kahler, Pam; Marchant, Robert
Subject: stale-dated checks proposal

I wanted to get your take on an issue which my boss, Jenny Kraus, has raised but which I forgot to mention this morning. Her understanding of current law is that any abandoned property is constitutionally required to be distributed to the common school fund. If this is the case, how is DWD's proposal constitutional, and if this is not the case, what are we misunderstanding about current law?

Robert

State Budget Office
Wisconsin Department of Administration
(608) 266-8219
robert.blaine@doa.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Friday, October 20, 2000 1:59 PM
To: Kahler, Pam; Marchant, Robert
Cc: Kraus, Jennifer; Geisler, Jeffrey
Subject: State-dated checks

Well -- the Office of the State Treasurer took a step back from their position (or my understanding of their position) of yesterday. They are essentially in objection to any statutory exemption to the unclaimed property statutes, for they argue such exemptions erode the Treasurer's ability to enforce the law with regards to unclaimed property and also any exemption sets a dangerous precedent in which every party will seek to get their own exemption from the statute. Nick Voegeli made several more objections which I will not go into, but they basically are not going to support the idea.

We brief Sec. Lightbourn on this issue on Wednesday, at which point we will have more guidance as to whether the administration would like this provision drafted or not.

Again, thanks for all your help.

Robert

State Budget Office
Wisconsin Department of Administration
(608) 266-8219
robert.blaine@doa.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Thursday, October 19, 2000 10:26 AM
To: Kahler, Pam; Marchant, Robert
Cc: Kraus, Jennifer
Subject: undistributed child support & State Treasurer

I spoke briefly with Nick Voegeli this morning. While he and his staff are still thinking about the proposal, he at this time voiced only one minor objection, regarding who is liable for the claims.

That is, he stated that the State Treasurer cannot / should not be liable for any claims if they never receive the undistributed child support to begin with. He expressed a willingness to publish a list of undistributed child support (as they currently do with other abandoned property), but he would want statutory language to the effect that DWD would be required to handle the claims. In short, if he's not getting the money, he doesn't want to mess with the claims. Is there anything that requires the Treasurer to be "the" handler of all claims, and is there any problem with having the Trust Fund take up this responsibility for undistributed child support?

The Office of the State Treasurer does not have any legal staff, so Nick couldn't comment on the constitutionality issue. Jenny and I will need to discuss the merits of soliciting another legal opinion (Leg. Council, AG?).

Also, Nick did not express any concerns about foregoing these funds for the common school fund. The amount must be marginal enough (from their perspective) to not be a big deal.

Nick may call me back tomorrow to discuss this further; his staff are still mulling it over.

In terms of the language request, you can probably hold off on further drafting activity for now. In short, DWD still has not justified to us that they truly need these revenues. If their FY02 & FY03 costs can be absorbed by the base, we will probably not pursue this change.

Robert

State Budget Office
Wisconsin Department of Administration
(608) 266-8219
robert.blaine@doa.state.wi.us

To: Kahler, Pam; Marchant, Robert
Subject: stale-dated checks proposal

I wanted to get your take on an issue which my boss, Jenny Kraus, has raised but which I forgot to mention this morning. Her understanding of current law is that any abandoned property is constitutionally required to be distributed to the common school fund. If this is the case, how is DWD's proposal constitutional, and if this is not the case, what are we misunderstanding about current law?

Robert

State Budget Office
Wisconsin Department of Administration
(608) 266-8219
robert.blaine@doa.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Tuesday, October 10, 2000 7:47 AM
To: Marchant, Robert
Cc: Kahler, Pam
Subject: RE: stale-dated checks proposal

The problem seems to be stemming from instructions DWD uses in completing its claims for federal child support reimbursement. Attached are two of the forms & their instructions which I downloaded from the Office of Child Support website.



OCSE 34A.pdf



OCSE 396A.pdf

First look at form 34A -- this is used to report quarterly child support collections. On page 6, there are instructions on how to treat "undistributable" collections. The last sentence states that such collections are "considered 'program income' and must be included . . . on Line 2b of Form OCSE-396A." Included in the definition of "undistributable" collections is an explicit reference to stale-dated checks.

So then we go to 396A. This is the form DWD fills out to claim federal reimbursement of child support administrative costs. You will see line 2b as referred to in form 34A. The problem arises as line 3, Net Admin Costs, is calculated. This net is arrived at by adding IV-D and non-IV-D costs, and then subtracting income from fees and other income (i.e., interest income as well as undistributable income -- look at the instructions for lines 1a through 3). This net is then used to determine how much DWD can claim in federal reimbursement

So, what this means in practice -- let's say DWD has \$1mn in admn costs and \$100,000 in undistributable collections. The net is \$900,000, and at a match rate of 66%, DWD can claim reimbursement for \$594,000. Sue Pfeiffer wants to be able to get 66% of the full \$1mn, or \$660,000.

This e-mail may not make much sense until you pull up the instructions. I'm not aware of an actual federal regulation which states that undistributable collections are program income -- sometimes caveats such as these aren't noticed until state agencies actually start digging into the instructions or until federal auditors come around. If you would like me to check with DWD to see if there is an actual citation for this rule, I would be happy to do so.

Hope this helps.
Robert

-----Original Message-----

From: Marchant, Robert
Sent: Monday, October 09, 2000 4:50 PM
To: Blaine, Robert
Cc: Kahler, Pam
Subject: RE: stale-dated checks proposal

Robert--

It may be helpful for Pam and me to take a look at the federal regulation or guideline that is requiring DWD to count unclaimed benefits as income. We may be able to come up with another approach that would satisfy the feds (and the state constitution). If you can obtain a citation to the pertinent regulation or a copy of the applicable directive, please forward the information to us.

Thanks.

Robert J. Marchant

Legislative Attorney
State of Wisconsin Legislative Reference Bureau
robert.marchant@legis.state.wi.us

-----Original Message-----

From: Blaine, Robert
Sent: Monday, October 09, 2000 1:36 PM

Kahler, Pam

From: Blaine, Robert
Sent: Friday, December 22, 2000 8:33 AM
To: Kahler, Pam; Marchant, Robert
Subject: Undistributed child support

We've been given the green light to proceed with the undistributed child support draft. George changed his mind and approved DWD's request to exempt these funds from the unclaimed property statutes and to use them for child support enforcement administration. I think you can basically follow DWD's proposal. One thing that should be added is some language requiring the department to reimburse the State Treasurer for any claims on a quarterly basis.

If you would like to discuss, or need further direction, give me a call. I'm going to be digging through my stat language pile today and over the weekend and will try to follow up on any other loose ends we may have. I will be out of the office Tues., but will be back Wednesday.

Merry Christmas.

Robert Blaine

State Budget Office
Wisconsin Department of Administration
(608) 266-8219
robert.blaine@doa.state.wi.us

① State-dated process

after 6 yrs goes to treas.

20.912 supercedes (for 6 yrs have \$ in fund)
w/ exception so that 1 yr on dr, 5 yrs for claims

7. → after 1 yr goes to treas make it available for use during the 5 yrs
but keep out enough for claims

② after 1 yr, \$ goes to treas if dr not issued

*

treas does not + pays claims

\$ stay = trust fund

purpose 49.22 (includes receipt and disbursement)

claims paid out of gen fund (by treas.)
\$ deposited into gen fund for
payment of claims

similar to 177.23 (1) + (2)

DWD reimburse treas for actual claims paid (treas does not
hold - advance

gradually reimbursement for reasonable admin exp & claim

fed rules → what they hope to achieve

fed believe that state debt → issues as revenue

need retroactive eff date (or initial ap)

177.17(4) → postpone reporting date
Collection cap

retro.
eff date

Jan 1, 1999

funds available 1 yr later

→ inception of trust fund

for trust admin → cross of 177.23(2)(a) to (e)

unidentified payee

payee's address unknown

inability to identify payee, payee or locator

check or electronic transfer

(property unclaimed for a year)

(e-mail questions to Robert)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0530/3

PJK&RJM...

1

SOON
1-7-01

WJ
Emire

DOA:.....Blaine - Using unclaimed child support funds for administering child support program

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

DNOTE

D-note

do not
go out

1 AN ACT to renumber 177.19 (2), 177.24 (1) and 177.35 (2); to renumber and
2 amend 177.24 (3); to amend 20.445 (3) (r), 177.24 (4) and 177.25 (2); and to
3 create 20.445 (3) (qm), 177.19 (2) (b), 177.24 (1) (b), 177.24 (3) (b), 177.25 (1m),
4 177.265 and 177.35 (2) (b) of the statutes; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

OTHER HEALTH AND HUMAN SERVICES ✓

Under current law, DWD is responsible for collecting and distributing all moneys received for child or family support and maintenance. If amounts received cannot be distributed, such as when a payee has not notified DWD of a new address, or if amount^s received are distributed but go unclaimed, such as when a check that is sent to a payee is not cashed within ^{90 days} a year of the check's issuance, those amounts are considered to be abandoned or unclaimed property. Under this state's version of the Uniform Unclaimed Property Act, DWD generally must attempt to notify the payee and report the amounts to the state treasurer every even-numbered year. The state treasurer provides public notice of all abandoned or unclaimed property reported to him or her. If the amounts remain unclaimed on ^{the} December 1 following this public notice, DWD must deliver the funds to the state treasurer. Except for

amounts sufficient ^{to} cover possible claims and the state treasurer's administrative expenses, the state treasurer currently deposits all abandoned or unclaimed property in the school fund, as required by article X, section 2, of the Wisconsin Constitution. ****IS THIS REQUIRED?**** Persons claiming an interest in any abandoned or unclaimed property delivered to the state treasurer may file a claim with the state treasurer to obtain the property.

Under ~~this~~ bill, DWD retains all amounts received for support that cannot be distributed or that are not claimed by payees to pay for its own expenses in administering the child support program. ~~Under this bill,~~ DWD and the state treasurer still provide notice of the abandoned or unclaimed property retained by DWD and the state treasurer pays any valid claims that are filed with respect to that property. At least quarterly, DWD must reimburse the state treasurer for the state treasurer's administrative expenses relating to that property and for any claims that are paid with respect to that property.

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

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

SECTION 1. 20.445 (3) (qm)[↓] of the statutes is created to read:

20.445 (3) (qm) *Child support state operations and reimbursement for claims and expenses; unclaimed payments.* From the support collections trust fund, a sum sufficient equal to the amounts credited under s. 20.912 (1)[↓] to the support collections trust fund and the amounts not distributable under par. (r)[↓] for administering the program under s. 49.22[↓] and all other purposes specified in s. 49.22[↓] and for reimbursing the state treasurer under s. 177.265.[↓]

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.445 (3) (r)[↓] of the statutes is amended to read:

20.445 (3) (r) *Support receipt and disbursement program; payments.* From the support collections trust fund, except as provided in par. (qm)[↓], all moneys received under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys received under ss. 767.265 and 767.29 for child or family support, maintenance,

1 spousal support, health care expenses or birth expenses, and all other moneys
2 received under judgments or orders in actions affecting the family, as defined in s.
3 767.02 (1), for disbursement to the persons for whom the payments are awarded, for
4 returning seized funds under s. 49.854 (5) (f) and, if assigned under s. 46.261, 48.57
5 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm), for transfer
6 to the appropriation account under par. (k). Estimated disbursements under this
7 paragraph shall not be included in the schedule under s. 20.005.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 111, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32.

8 **SECTION 3.** 177.19 (2) of the statutes is renumbered 177.19 (2) (a).

9 **SECTION 4.** 177.19 (2) (b) of the statutes is created to read:

10 177.19 (2) (b) Subsection (1) does not apply to abandoned property that is in
11 the form of amounts credited under s. 20.912 (1) to the support collections trust fund
12 or amounts not distributable from the support collections trust fund to the persons
13 for whom the amounts were awarded.

14 **SECTION 5.** 177.24 (1) of the statutes is renumbered 177.24 (1) (a).

15 **SECTION 6.** 177.24 (1) (b) of the statutes is created to read:

16 177.24 (1) (b) Any person, except another state, claiming an interest in any
17 property that is reported to the administrator under s. 177.17 and that is in the form
18 of amounts credited under s. 20.912 (1) to the support collections trust fund or
19 amounts not distributable from the support collections trust fund to the persons for
20 whom the amounts were awarded may file a claim with the administrator, after
21 December 1 following the report, on a form prescribed by the administrator and
22 verified by the claimant.

1 **SECTION 7.** 177.24 (3)[↓] of the statutes is renumbered 177.24 (3) (a)[↓] and amended
2 to read:

3 177.24 (3) (a) If Except as provided in par. (b)[↓], if a claim is allowed, the
4 administrator shall deliver the property to the claimant or pay the claimant the
5 amount the administrator actually received or the net proceeds of the sale of the
6 property, together with any additional amount required under s. 177.21. If the claim
7 is for property presumed abandoned under s. 177.10 which was sold by the
8 administrator within 3 years after the date of delivery, the amount payable for that
9 claim is the value of the property at the time the claim was made or the net proceeds
10 of sale, whichever is greater. If the property claimed was interest bearing to the
11 owner on the date of surrender by the holder, the administrator shall pay interest at
12 a rate of 6% per year or any lesser rate the property earned while in the possession
13 of the holder. Interest begins to accrue when the property is delivered to the
14 administrator and ceases on the earlier of the expiration of 10 years after delivery
15 or the date on which payment is made to the owner. No interest on interest-bearing
16 property is payable for any period before December 31, 1984.

History: 1983 a. 408.

17 **SECTION 8.** 177.24 (3) (b)[↓] of the statutes is created to read:

18 177.24 (3) (b) If the administrator allows a claim made under sub. (1) (b)[↓], the
19 administrator shall pay the claimant the amount reported to the administrator
20 under s. 177.17.[↓]

21 **SECTION 9.** 177.24 (4)[↓] of the statutes is amended to read:

22 177.24 (4) Any holder who pays the owner for property that has been delivered
23 to this state which, if claimed from the administrator, would be subject to sub. (3) (a)[↓]

1 shall add interest as provided under sub. (3) (a). The added interest shall be repaid
2 to the holder by the administrator in the same manner as the principal.

History: 1983 a. 408.

3 **SECTION 10.** 177.25 (1m) of the statutes is created to read:

4 177.25 (1m) At any time after December 1 following the reporting, under s.
5 177.17, of property that is in the form of amounts credited under s. 20.912 (1) to the
6 support collections trust fund or amounts not distributable from the support
7 collections trust fund to the persons for whom the amounts were awarded, another
8 state may recover the property under any of the circumstances described in sub. (1)
9 (a) to (d).

10 **SECTION 11.** 177.25 (2) of the statutes is amended to read:

11 177.25 (2) The claim of another state to recover escheated or abandoned
12 property shall be presented in a form prescribed by the administrator, who shall
13 decide the claim within 90 days after it is presented. The administrator shall allow
14 the claim if he or she determines that the other state is entitled to the abandoned
15 property under sub. (1) or (1m).

History: 1983 a. 408.

16 **SECTION 12.** 177.265 of the statutes is created to read:

17 **177.265 Reimbursement for claims and administrative expenses. (1)**

18 At least quarterly, the department of workforce development shall reimburse the
19 administrator, based on information provided by the administrator, for all of the
20 following:

21 (a) Any claims paid under ss. 177.24 to 177.26, since the last reimbursement
22 was made, with respect to abandoned property in the form of amounts credited under
23 s. 20.912 (1) to the support collections trust fund and amounts not distributable from

1 the support collections trust fund to the persons for whom the amounts were
2 awarded.

3 (b) Any administrative expenses specified in s. 177.23 (2) (a) to (e), incurred
4 since the last reimbursement was made, with respect to abandoned property in the
5 form of amounts credited under s. 20.912 (1) to the support collections trust fund and
6 amounts not distributable from the support collections trust fund to the persons for
7 whom the amounts were awarded.

8 (2) The administrator shall deposit in the general fund all moneys received
9 under sub. (1).

10 SECTION 13. 177.35 (2) of the statutes is renumbered 177.35 (2) (a).

11 SECTION 14. 177.35 (2) (b) of the statutes is created to read:

12 177.35 (2) (b) An agreement entered into under this section that relates to
13 property that is in the form of amounts credited under s. 20.912 (1) to the support
14 collections trust fund or amounts not distributable from the support collections trust
15 fund to the persons for whom the amounts were awarded is not enforceable if the
16 agreement is entered into within 24 months after December 1 following the reporting
17 of the property under s. 177.17.

18 SECTION 9358. Initial applicability; workforce development.

19 (1) UNCLAIMED AND NOT DISTRIBUTABLE SUPPORT. The treatment of sections
20 20.445 (3) (qm) ~~and~~ ^{and} 20.445 (3) (r), 177.19 (2), 177.24 (1), (3) (b), and (4), 177.25 (1m) and
21 (2), 177.265, and 177.35 (2) of the statutes and the creation of sections 177.19 (2) (b),
22 177.24 (1) (b), and 177.35 (2) (b) of the statutes first applies to amounts credited
23 under section 20.912 (1) of the statutes to the support collections trust fund, and

1 amounts determined not to be distributable from the support collections trust fund
2 by the department of workforce development, on January 1, 1999.

3 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0530/24 ^{1 da}
PJK&RJM...../.....
WJ

1. Please note that this draft may violate ~~Article X, Section 2~~ of the ^{the} state constitution, which requires all money that accrues to the state by forfeiture or escheat to be deposited in the school fund. Although it is possible to argue that the property subject to this draft does not accrue to the state because the property may be reclaimed by the owner, it is at least as likely that a court would hold that ~~unclaimed~~ property does accrue to the state by escheat or forfeiture. As a general matter, in *Estate of Payne*, 208 Wis. 142, 145 (1932), the court indicated that ~~Article X, Section 2~~ of the constitution is to be interpreted broadly so as to "throw everything possible into the school fund." Section 177.41, stats., itself refers to "the escheat of abandoned or unclaimed property." In addition, the court has more recently described ch. 177 as a modern "escheat statute." See *Employers Ins. of Wausau v. Smith*, 154 Wis. 2d 199, 205-06 (1990). Even if the concept of "escheat" is limited to cover only the property of a person who dies without heirs, unclaimed property used by the state may be considered to accrue to the state by forfeiture.

Although there is no Wisconsin case discussing the specific issue presented by this draft, an attorney general's opinion from April 21, 1972, notes that a statute requiring certain unclaimed money to be distributed to the department of employee trust funds would violate ~~Article X, Section 2~~ of the constitution.

2. Under s. 177.20 (1), stats., once abandoned property is transferred to the state treasurer, the person transferring the property is relieved of all liability for any claim regarding the property. In addition, under s. 177.20 (5), stats., the state treasurer is required in certain circumstances to indemnify the person transferring the property against liability for a claim to the property. These provisions will not apply to DWD with regard to property subject to this draft because, under the draft, DWD retains custody of the property.

3. Please review proposed s. 177.35 (2) (b). This provision is necessary to maintain the effect of s. 177.35 (2), stats., with regard to property subject to this draft.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0530/1dn
FJK&RJM.wlj.jf

January 8, 2001

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Although there is no Wisconsin case discussing the specific issue presented by this draft, an attorney general's opinion from April 21, 1972, notes that a statute requiring certain unclaimed money to be distributed to the department of employee trust funds would violate article X, section 2, of the constitution.

2. Under s. 177.20 (1), stats., once abandoned property is transferred to the state treasurer, the person transferring the property is relieved of all liability for any claim regarding the property. In addition, under s. 177.20 (5), stats., the state treasurer is required in certain circumstances to indemnify the person transferring the property against liability for a claim to the property. These provisions will not apply to DWD with regard to property subject to this draft because, under the draft, DWD retains custody of the property.

3. Please review proposed s. 177.35 (2) (b). This provision is necessary to maintain the effect of s. 177.35 (2), stats., with regard to property subject to this draft.

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RWR

DOA:.....Blaine - Using unclaimed child support funds for administering
child support program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

NOTE

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, DWD is responsible for collecting and distributing all moneys received for child or family support and maintenance. If amounts received cannot be distributed, such as when a payee has not notified DWD of a new address, or if amounts received are distributed but go unclaimed, such as when a check that is sent to a payee is not cashed within one year of the check's issuance, those amounts are considered to be abandoned or unclaimed property. Under this state's version of the Uniform Unclaimed Property Act, DWD generally must attempt to notify the payee and report the amounts to the state treasurer every even-numbered year. The state treasurer provides public notice of all abandoned or unclaimed property reported to him or her. If the amounts remain unclaimed on the December 1 following this public notice, DWD must deliver the funds to the state treasurer. Except for amounts sufficient to cover possible claims and the state treasurer's administrative expenses, the state treasurer currently deposits all abandoned or unclaimed property in the school fund, as required by article X, section 2, of the Wisconsin Constitution. Persons claiming an interest in any abandoned or unclaimed property delivered to the state treasurer may file a claim with the state treasurer to obtain the property.

Under the bill, DWD retains all amounts received for support that cannot be distributed or that are not claimed by payees to pay for its own expenses in administering the child support program. DWD and the state treasurer still provide notice of the abandoned or unclaimed property retained by DWD, and the state treasurer pays any valid claims that are filed with respect to that property. At least quarterly, DWD must reimburse the state treasurer for the state treasurer's administrative expenses relating to that property and for any claims that are paid with respect to that property.

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

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

1 SECTION 1. 20.445 (3) (qm) of the statutes is created to read:

2 20.445 (3) (qm) *Child support state operations and reimbursement for claims*
3 *and expenses; unclaimed payments.* From the support collections trust fund, a sum
4 sufficient equal to the amounts credited under s. 20.912 (1) to the support collections
5 trust fund and the amounts not distributable under par. (r) for administering the
6 program under s. 49.22 and all other purposes specified in s. 49.22 and for
7 reimbursing the state treasurer under s. 177.265.

8 *****NOTE:** This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

9 SECTION 2. 20.445 (3) (r) of the statutes is amended to read:

10 20.445 (3) (r) *Support receipt and disbursement program; payments.* From the
11 support collections trust fund, except as provided in par. (qm), all moneys received
12 under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys
13 received under ss. 767.265 and 767.29 for child or family support, maintenance,
14 spousal support, health care expenses or birth expenses, and all other moneys
15 received under judgments or orders in actions affecting the family, as defined in s.
16 767.02 (1), for disbursement to the persons for whom the payments are awarded, for
returning seized funds under s. 49.854 (5) (f) and, if assigned under s. 46.261, 48.57

7
DWS
2-8

1 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm), for transfer
2 to the appropriation account under par. (k). Estimated disbursements under this
3 paragraph shall not be included in the schedule under s. 20.005.

4 **SECTION 3.** 177.19 (2) of the statutes is renumbered 177.19 (2) (a).

5 **SECTION 4.** 177.19 (2) (b) of the statutes is created to read:

6 177.19 (2) (b) Subsection (1) does not apply to abandoned property that is in
7 the form of amounts credited under s. 20.912 (1) to the support collections trust fund
8 or amounts not distributable from the support collections trust fund to the persons
9 for whom the amounts were awarded.

10 **SECTION 5.** 177.24 (1) of the statutes is renumbered 177.24 (1) (a).

11 **SECTION 6.** 177.24 (1) (b) of the statutes is created to read:

12 177.24 (1) (b) Any person, except another state, claiming an interest in any
13 property that is reported to the administrator under s. 177.17 and that is in the form
14 of amounts credited under s. 20.912 (1) to the support collections trust fund or
15 amounts not distributable from the support collections trust fund to the persons for
16 whom the amounts were awarded may file a claim with the administrator, after
17 December 1 following the report, on a form prescribed by the administrator and
18 verified by the claimant.

19 **SECTION 7.** 177.24 (3) of the statutes is renumbered 177.24 (3) (a) and amended
20 to read:

21 177.24 (3) (a) If Except as provided in par. (b), if a claim is allowed, the
22 administrator shall deliver the property to the claimant or pay the claimant the
23 amount the administrator actually received or the net proceeds of the sale of the
24 property, together with any additional amount required under s. 177.21. If the claim
25 is for property presumed abandoned under s. 177.10 which was sold by the

TWS925
3-9

1 ~~administrator within 8 years after the date of delivery, the amount payable for that~~
2 ~~claim is the value of the property at the time the claim was made or the net proceeds~~
3 ~~of sale, whichever is greater. If the property claimed was interest bearing to the~~
4 ~~owner on the date of surrender by the holder, the administrator shall pay interest at~~
5 ~~a rate of 6% per year or any lesser rate the property earned while in the possession~~
6 ~~of the holder. Interest begins to accrue when the property is delivered to the~~
7 ~~administrator and ceases on the earlier of the expiration of 10 years after delivery~~
8 ~~or the date on which payment is made to the owner. No interest on interest-bearing~~
9 ~~property is payable for any period before December 31, 1984.~~

10 SECTION 8. 177.24 (3) (b) of the statutes is created to read:

11 177.24 (3) (b) If the administrator allows a claim made under sub. (1) (b), the
12 administrator shall pay the claimant the amount reported to the administrator
13 under s. 177.17.

14 SECTION 9. 177.24 (4) of the statutes is amended to read:

15 177.24 (4) Any holder who pays the owner for property that has been delivered
16 to this state which, if claimed from the administrator, would be subject to sub. (3) (a)
17 shall add interest as provided under sub. (3) (a). The added interest shall be repaid
18 to the holder by the administrator in the same manner as the principal.

19 SECTION 10. 177.25 (1m) of the statutes is created to read:

20 177.25 (1m) At any time after December 1 following the reporting, under s.
21 177.17, of property that is in the form of amounts credited under s. 20.912 (1) to the
22 support collections trust fund or amounts not distributable from the support
23 collections trust fund to the persons for whom the amounts were awarded, another
24 state may recover the property under any of the circumstances described in sub. (1)
25 (a) to (d).

1 **SECTION 11.** 177.25 (2) of the statutes is amended to read:

2 177.25 (2) The claim of another state to recover escheated or abandoned
3 property shall be presented in a form prescribed by the administrator, who shall
4 decide the claim within 90 days after it is presented. The administrator shall allow
5 the claim if he or she determines that the other state is entitled to the abandoned
6 property under sub. (1) or (1m).

7 **SECTION 12.** 177.265 of the statutes is created to read:

8 **177.265 Reimbursement for claims and administrative expenses. (1)**

9 At least quarterly, the department of workforce development shall reimburse the
10 administrator, based on information provided by the administrator, for all of the
11 following:

12 (a) Any claims paid under ss. 177.24 to 177.26, since the last reimbursement
13 was made, with respect to abandoned property in the form of amounts credited under
14 s. 20.912 (1) to the support collections trust fund and amounts not distributable from
15 the support collections trust fund to the persons for whom the amounts were
16 awarded.

17 (b) Any administrative expenses specified in s. 177.23 (2) (a) to (e), incurred
18 since the last reimbursement was made, with respect to abandoned property in the
19 form of amounts credited under s. 20.912 (1) to the support collections trust fund and
20 amounts not distributable from the support collections trust fund to the persons for
21 whom the amounts were awarded.

22 (2) The administrator shall deposit in the general fund all moneys received
23 under sub. (1).

24 ~~SECTION 13.~~ 177.35 (2) of the statutes is renumbered 177.35 (2) (a).

25 **SECTION 14.** 177.35 (2) (b) of the statutes is created to read:

INSERT 6-6

1 177.35 (2) (b) An agreement entered into under this section that relates to
2 property that is in the form of amounts credited under s. 20.912 (1) to the support
3 collections trust fund or amounts not distributable from the support collections trust
4 fund to the persons for whom the amounts were awarded is not enforceable if the
5 agreement is entered into within 24 months after December 1 following the reporting
6 of the property under s. 177.17.

7 **SECTION 9358. Initial applicability; workforce development.**

8 (1) UNCLAIMED AND NOT DISTRIBUTABLE SUPPORT. The treatment of sections
9 20.445 (3) (qm) and (r), 177.24 (3) (b) and (4), 177.25 (1m) and (2), and 177.265 of the
10 statutes, the renumbering of sections ~~177.24 (1) and 177.35 (2)~~ 177.24 (1), and 177.35 (2) of the
11 statutes, and the creation of sections ~~177.19 (2) (b)~~ 177.24 (1) (b), and 177.35 (2) (b)
12 of the statutes first apply to amounts credited under section 20.912 (1) of the statutes
13 to the support collections trust fund, and amounts determined not to be distributable
14 from the support collections trust fund by the department of workforce development,
15 on January 1, 1999.

16 (END)

177.17(4)(a)2.

related to

(with respect to the exception paragraph (gm))

INSERT 6-15

INSERT 2-8

SEC # AM; 20.445(3) (P):

1 20.445 (3) (r) *Support receipt and disbursement program; payments.* From the
2 support collections trust fund, all moneys received under s. 49.854, except for moneys
3 received under s. 49.854 (11) (b), all moneys received under ss. 767.265 and 767.29
4 for child or family support, maintenance, spousal support, health care expenses, or
5 birth expenses, and all other moneys received under judgments or orders in actions
6 affecting the family, as defined in s. 767.02 (1), and all moneys received from the
7 department of revenue under s. 49.855 that were withheld for delinquent child
8 support, family support, or maintenance or outstanding court-ordered amounts for
9 past support, medical expenses, or birth expenses, for disbursement to the persons
10 for whom the payments are awarded, for returning seized funds under s. 49.854 (5)
11 (f), and, if assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19
12 (4) (h) 1. b., or 49.775 (2) (bm), for transfer to the appropriation account under par.
13 (k). Estimated disbursements under this paragraph shall not be included in the
14 schedule under s. 20.005.

15 *-0530/1.2* SECTION 794. 20.445 (3) (r) of the statutes is amended to read:

16 20.445 (3) (r) *Support receipt and disbursement program; payments.* From the
17 support collections trust fund, except as provided in par. (qm), all moneys received
18 under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys
19 received under ss. 767.265 and 767.29 for child or family support, maintenance,
20 spousal support, health care expenses or birth expenses, and all other moneys
21 received under judgments or orders in actions affecting the family, as defined in s.
22 767.02 (1), for disbursement to the persons for whom the payments are awarded, for
23 returning seized funds under s. 49.854 (5) (f) and, if assigned under s. 46.261, 48.57
24 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm), for transfer

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0530/2insR
RJM:.....

INSERT 3-9

****NOTE: This is reconciled s. 20.445 (3) (r). This SECTION has been affected by drafts with the following LRB numbers: LRB-0529 and LRB-0530. This treatment incorporates the treatment from LRB-529 into LRB-0530.

INSERT 6-6

****NOTE: This is reconciled s. 177.35 (2) (b). This SECTION has been conceptually affected by drafts with the following LRB numbers: LRB-0530 and LRB-0658. This treatment changes the 24-month period to a 12-month period in order to be conceptually consistent with proposed s. 177.35 (2) (a) in LRB-0658.

INSERT 6-15

****NOTE: This is reconciled SECTION 9358 (1). This SECTION has been affected by drafts with the following LRB numbers: LRB-0529, LRB-0530, and LRB-0658. This treatment reflects the correct statutory numbering as a result of LRB-0658 and the correct aspect of s. 20.445 (3) (r) to which the provision should refer as a result of LRB-0529.

The treatment incorporated from

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0530/2dn
RJM&PJK/.....

WJ

This draft has been reconciled with LRB-0529, LRB-0658, and LRB-2025. In making this reconciliation, we made the following changes to this draft:

- A. Incorporated the treatment of s. 20.445 (3) (r)¹ from LRB-0529.
- B. Removed the renumbering of s. 177.19 (2)¹ and the creation of s. 177.19 (2) (b)¹ and placed the necessary treatment in proposed s. 177.17 (4) (a) 2. in LRB-0658.
- C. Removed the renumbering and amendment of s. 177.24 (3)¹ and placed that treatment in LRB-2025.
- D. Removed the renumbering of s. 177.35 (2) and placed that treatment in LRB-0658.
- E. Changed the 24-month period in proposed s. 177.35 (2) (b) to a 12-month period, ~~in order~~ to be consistent with proposed s. 177.35 (2) (a) in LRB-0658.
- F. Changed the initial applicability provision to reflect the correct statutory numbering as a result of LRB-0658 and the correct aspect of s. 20.445 (3) (r) to which the provision should refer as a result of the treatment incorporated from LRB-0529.

Please let us know if any of these changes is inconsistent with your intent or if you have any questions.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0530/2dn
RJM&PJK:wlj:pg

February 6, 2001

This draft has been reconciled with LRB-0529, LRB-0658, and LRB-2025. In making this reconciliation, we made the following changes to this draft:

- A. Incorporated the treatment of s. 20.445 (3) (r) from LRB-0529.
- B. Removed the renumbering of s. 177.19 (2) and the creation of s. 177.19 (2) (b) and placed the necessary treatment in proposed s. 177.17 (4) (a) 2. in LRB-0658.
- C. Removed the renumbering and amendment of s. 177.24 (3) and placed that treatment in LRB-2025.
- D. Removed the renumbering of s. 177.35 (2) and placed that treatment in LRB-0658.
- E. Changed the 24-month period in proposed s. 177.35 (2) (b) to a 12-month period, to be consistent with proposed s. 177.35 (2) (a) in LRB-0658.
- F. Changed the initial applicability provision to reflect the correct statutory numbering as a result of LRB-0658 and the correct aspect of s. 20.445 (3) (r) to which the provision should refer as a result of the treatment incorporated from LRB-0529.

Please let us know if any of these changes is inconsistent with your intent or if you have any questions.

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		AC 9223 (1)	same as above
		ALCOHOL	
		INITIATIVE	
		AC 9223 (1)	same as above
		DRIVER	
		IMPROVEMENT	
ISR	0734/1	AC 9257 (1)	Follow format in executive budget bill memo, VETS TRAINING Attachment C
MGG	0313/2	IA 9337 (1)	Add "on the effective date of this subsection"?
		AQUATIC	
		PLANTS	
JK	0930/1	IA 9334 (1)	on <u>July 1, 2001</u> the effective date of this subsection? Otherwise, draft should transfer the moneys from wherever they go between 7/1/01 and any delayed effective date.
		INTERNAL	
		SERVICES	
PJH	0833/3	IA 9352(1)	...forfeitures imposed <u>for violations committed</u> on effective date... (avoids retroactive change in penalty after violation occurs)
		JUVENILE	
		PRIVILEGES	
RJM	2025/2	IA 9353 (1)	treatment and renumbering first applies apply
		UNCLAIMED	
		PROPERTY	
PJK	0529/6	IA 9358 (1)	Place "with respect to" clause in parentheses instead of setting off with commas.
		RECEIPT AND	
		DISBURSEMENT	
PJK	0530/2	IA 9358 (1)	...first apply <u>retroactively</u> to... [rule is the same as for UNCLAIMED effective dates under DM ex. 7.04 (8) (d)]
		SUPPORT	



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0530/2
PJK&RJM:wlj:pg

DOA:.....Blaine - Using unclaimed child support funds for administering
child support program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, DWD is responsible for collecting and distributing all moneys received for child or family support and maintenance. If amounts received cannot be distributed, such as when a payee has not notified DWD of a new address, or if amounts received are distributed but go unclaimed, such as when a check that is sent to a payee is not cashed within one year of the check's issuance, those amounts are considered to be abandoned or unclaimed property. Under this state's version of the Uniform Unclaimed Property Act, DWD generally must attempt to notify the payee and report the amounts to the state treasurer every even-numbered year. The state treasurer provides public notice of all abandoned or unclaimed property reported to him or her. If the amounts remain unclaimed on the December 1 following this public notice, DWD must deliver the funds to the state treasurer. Except for amounts sufficient to cover possible claims and the state treasurer's administrative expenses, the state treasurer currently deposits all abandoned or unclaimed property in the school fund, as required by article X, section 2, of the Wisconsin Constitution. Persons claiming an interest in any abandoned or unclaimed property delivered to the state treasurer may file a claim with the state treasurer to obtain the property.

Under the bill, DWD retains all amounts received for support that cannot be distributed or that are not claimed by payees to pay for its own expenses in administering the child support program. DWD and the state treasurer still provide notice of the abandoned or unclaimed property retained by DWD, and the state treasurer pays any valid claims that are filed with respect to that property. At least quarterly, DWD must reimburse the state treasurer for the state treasurer's administrative expenses relating to that property and for any claims that are paid with respect to that property.

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

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

1 **SECTION 1.** 20.445 (3) (qm) of the statutes is created to read:

2 20.445 (3) (qm) *Child support state operations and reimbursement for claims*
3 *and expenses; unclaimed payments.* From the support collections trust fund, a sum
4 sufficient equal to the amounts credited under s. 20.912 (1) to the support collections
5 trust fund and the amounts not distributable under par. (r) for administering the
6 program under s. 49.22 and all other purposes specified in s. 49.22 and for
7 reimbursing the state treasurer under s. 177.265.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 2.** 20.445 (3) (r) of the statutes is amended to read:

9 20.445 (3) (r) *Support receipt and disbursement program; payments.* From the
10 support collections trust fund, except as provided in par. (qm), all moneys received
11 under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys
12 received under ss. 767.265 and 767.29 for child or family support, maintenance,
13 spousal support, health care expenses, or birth expenses, and all other moneys
14 received under judgments or orders in actions affecting the family, as defined in s.
15 767.02 (1), and all moneys received from the department of revenue under s. 49.855
16 that were withheld for delinquent child support, family support, or maintenance or

1 outstanding court-ordered amounts for past support, medical expenses, or birth
2 expenses, for disbursement to the persons for whom the payments are awarded, for
3 returning seized funds under s. 49.854 (5) (f), and, if assigned under s. 46.261, 48.57
4 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b., or 49.775 (2) (bm), for transfer
5 to the appropriation account under par. (k). Estimated disbursements under this
6 paragraph shall not be included in the schedule under s. 20.005.

****NOTE: This is reconciled s. 20.445 (3) (r). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0529 and LRB-0530. This treatment
incorporates the treatment from LRB-0529 into LRB-0530.

7 **SECTION 3.** 177.24 (1) of the statutes is renumbered 177.24 (1) (a).

8 **SECTION 4.** 177.24 (1) (b) of the statutes is created to read:

9 177.24 (1) (b) Any person, except another state, claiming an interest in any
10 property that is reported to the administrator under s. 177.17 and that is in the form
11 of amounts credited under s. 20.912 (1) to the support collections trust fund or
12 amounts not distributable from the support collections trust fund to the persons for
13 whom the amounts were awarded may file a claim with the administrator, after
14 December 1 following the report, on a form prescribed by the administrator and
15 verified by the claimant.

16 **SECTION 5.** 177.24 (3) (b) of the statutes is created to read:

17 177.24 (3) (b) If the administrator allows a claim made under sub. (1) (b), the
18 administrator shall pay the claimant the amount reported to the administrator
19 under s. 177.17.

20 **SECTION 6.** 177.24 (4) of the statutes is amended to read:

21 177.24 (4) Any holder who pays the owner for property that has been delivered
22 to this state which, if claimed from the administrator, would be subject to sub. (3) (a)

1 shall add interest as provided under sub. (3) (a). The added interest shall be repaid
2 to the holder by the administrator in the same manner as the principal.

3 **SECTION 7.** 177.25 (1m) of the statutes is created to read:

4 177.25 (1m) At any time after December 1 following the reporting, under s.
5 177.17, of property that is in the form of amounts credited under s. 20.912 (1) to the
6 support collections trust fund or amounts not distributable from the support
7 collections trust fund to the persons for whom the amounts were awarded, another
8 state may recover the property under any of the circumstances described in sub. (1)
9 (a) to (d).

10 **SECTION 8.** 177.25 (2) of the statutes is amended to read:

11 177.25 (2) The claim of another state to recover escheated or abandoned
12 property shall be presented in a form prescribed by the administrator, who shall
13 decide the claim within 90 days after it is presented. The administrator shall allow
14 the claim if he or she determines that the other state is entitled to the abandoned
15 property under sub. (1) or (1m).

16 **SECTION 9.** 177.265 of the statutes is created to read:

17 **177.265 Reimbursement for claims and administrative expenses. (1)**

18 At least quarterly, the department of workforce development shall reimburse the
19 administrator, based on information provided by the administrator, for all of the
20 following:

21 (a) Any claims paid under ss. 177.24 to 177.26, since the last reimbursement
22 was made, with respect to abandoned property in the form of amounts credited under
23 s. 20.912 (1) to the support collections trust fund and amounts not distributable from
24 the support collections trust fund to the persons for whom the amounts were
25 awarded.

1 (b) Any administrative expenses specified in s. 177.23 (2) (a) to (e), incurred
2 since the last reimbursement was made, with respect to abandoned property in the
3 form of amounts credited under s. 20.912 (1) to the support collections trust fund and
4 amounts not distributable from the support collections trust fund to the persons for
5 whom the amounts were awarded.

6 (2) The administrator shall deposit in the general fund all moneys received
7 under sub. (1).

8 **SECTION 10.** 177.35 (2) (b) of the statutes is created to read:

9 177.35 (2) (b) An agreement entered into under this section that relates to
10 property that is in the form of amounts credited under s. 20.912 (1) to the support
11 collections trust fund or amounts not distributable from the support collections trust
12 fund to the persons for whom the amounts were awarded is not enforceable if the
13 agreement is entered into within 12 months after December 1 following the reporting
14 of the property under s. 177.17.

****NOTE: This is reconciled s. 177.35 (2) (b). This SECTION has been conceptually
affected by drafts with the following LRB numbers: LRB-0530 and LRB-0658. This
treatment changes the 24-month period to a 12-month period to be conceptually
consistent with proposed s. 177.35 (2) (a) in LRB-0658.

15 **SECTION 9358. Initial applicability; workforce development.**

16 (1) UNCLAIMED AND NOT DISTRIBUTABLE SUPPORT. The treatment of sections
17 20.445 (3) (qm) and (r) (with respect to the exception related to paragraph (qm)),
18 177.24 (3) (b) and (4), 177.25 (1m) and (2), and 177.265 of the statutes, the
19 renumbering of section 177.24 (1) of the statutes, and the creation of sections 177.17
20 (4) (a) 2., 177.24 (1) (b), and 177.35 (2) (b) of the statutes first apply to amounts
21 credited under section 20.912 (1) of the statutes to the support collections trust fund,
22 and amounts determined not to be distributable from the support collections trust
23 fund by the department of workforce development, on January 1, 1999.

****NOTE: This is reconciled SECTION 9358 (1). This SECTION has been affected by drafts with the following LRB numbers: LRB-0529, LRB-0530, and LRB-0658. This treatment reflects the correct statutory numbering as a result of LRB-0658 and the correct aspect of s. 20.445 (3) (r) to which the provision should refer as a result of the treatment incorporated from LRB-0529.

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(END)