



1995 SENATE BILL 196

May 16, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Health, Human Services and Aging.

1 **AN ACT to amend** 20.435 (4) (L), 20.435 (4) (Lm), 46.254 (1), 46.254 (2), 46.254
2 (3) (a) and 71.93 (1) (a) 3.; and **to create** 49.125 (2m), 49.125 (3), 49.195 (4m),
3 49.195 (5), 49.497 (2e) and 49.497 (2m) of the statutes; **relating to:** certain fees
4 relating to recovery of overpayments under food stamp, aid to families with
5 dependent children and medical assistance programs and making an
6 appropriation.

Analysis by the Legislative Reference Bureau

Under current law, counties and tribal governing bodies are authorized to recover overpayments under the food stamp, aid to families with dependent children (AFDC) and medical assistance programs; they are also authorized to retain a percentage of the amount recovered. Current law also authorizes the department of health and social services (DHSS) to certify certain overpayments under these programs to the department of revenue (DOR) for offset against any tax refunds due the recipient of the overpayment. This bill allows DHSS to charge counties and tribal governing bodies for the administrative costs that are incurred by DOR and that are related to certification of these amounts. Recovered administrative costs are credited to DHSS's appropriation for reducing error and fraud in the food stamp, AFDC and medical assistance programs.

Under current law, overpayments under the food stamp, AFDC and medical assistance programs are often recovered under a recovery plan. This bill authorizes a county or a governing body of a federally recognized American Indian tribe to assess persons who fail to comply with the terms of a recovery plan a fee in an amount not to exceed 10% of the amount remaining to be recovered at the time of the noncompliance. The fee may not be assessed more than once with respect to the same overpayment and may be assessed only if a person is no longer eligible for the type

of benefits, such as food stamps, AFDC or medical assistance, that were overpaid. The fee may be retained by the county or the tribal governing body.

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

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

1 **SECTION 1.** 20.435 (4) (L) of the statutes is amended to read:

2 20.435 (4) (L) *Welfare fraud and error reduction; state operations.* From the
3 moneys received as the state's share of the recovery of overpayments and incorrect
4 payments under ss. 49.125 (2) (1), 49.195 (3) and 49.497 (1) and from costs recovered
5 under ss. 49.125 (3), 49.195 (5) and 49.497 (2m), the amounts in the schedule for the
6 department's activities to reduce error and fraud in the food stamp, aid to families
7 with dependent children and medical assistance programs.

8 **SECTION 2.** 20.435 (4) (Lm) of the statutes is amended to read:

9 20.435 (4) (Lm) *Welfare fraud and error reduction; local assistance.* From the
10 moneys received as the state's share of the recovery of overpayments and incorrect
11 payments under ss. 49.125 (2) (1), 49.195 (3) and 49.497 (1) and from costs recovered
12 under ss. 49.125 (3), 49.195 (5) and 49.497 (2m), all moneys not appropriated under
13 par. (L) for county and tribal activities to reduce error and fraud in the food stamp,
14 aid to families with dependent children and medical assistance program.

15 **SECTION 3.** 46.254 (1) of the statutes is amended to read:

16 46.254 (1) COUNTY DEPARTMENT NOTIFICATION REQUIREMENT. If a county
17 department under s. 46.215, 46.22 or 46.23 or a governing body of a federally
18 recognized American Indian tribe or band determines that it or the department of
19 health and social services may recover an amount under s. 49.083, 49.125 (1) or (2m),

1 49.195 (3) or (4m) or 49.497 (1) or (2e), the county department or governing body shall
2 notify the department of health and social services of the determination.

3 **SECTION 4.** 46.254 (2) of the statutes is amended to read:

4 46.254 (2) DEPARTMENT CERTIFICATION. At least annually, the department shall
5 certify to the department of revenue the amounts that, based on the notifications
6 received under sub. (1) and on other information received by the department of
7 health and social services, the department has determined ~~that it may recover to be~~
8 due under ss. 49.083, 49.125 (1) and (2m), 49.195 (3) and (4m) and 49.497 (1) and (2e),
9 except that the department may not certify an amount under this subsection unless
10 the department has met the notice requirements under sub. (3) and unless the
11 department's determination has either not been appealed or is no longer under
12 appeal.

13 **SECTION 5.** 46.254 (3) (a) of the statutes is amended to read:

14 46.254 (3) (a) Inform the person that the department intends to certify to the
15 department of revenue an amount that the department of health and social services
16 has determined to be due under s. 49.083, 49.125 (1) or (2m), 49.195 (3) or (4m) or
17 49.497 (1) or (2e), for setoff from any state tax refund that may be due the person.

18 **SECTION 6.** 49.125 (2m) of the statutes is created to read:

19 49.125 (2m) A county or elected governing body of a federally recognized
20 American Indian tribe may assess a fee on a person who fails to comply with a plan
21 for recovering overpayments that arise from an overissuance of food coupons, if the
22 person is no longer eligible for food stamps under the food stamp program. The fee
23 may not exceed 10% of the amount remaining to be recovered at the time of the
24 noncompliance and may not be assessed more than once with respect to the same
25 overpayment. The fee may be retained by the county or tribal governing body.

1 **SECTION 7.** 49.125 (3) of the statutes is created to read:

2 49.125 **(3)** The department may charge a county, or an elected governing body
3 of a federally recognized American Indian tribe or band, for the administrative costs
4 that are incurred by the department of health and social services and the department
5 of revenue and that are related to certifications under s. 46.254 (2) to recover
6 overpayments that arise from an overissuance of food coupons under the food stamp
7 program.

8 **SECTION 8.** 49.195 (4m) of the statutes is created to read:

9 49.195 **(4m)** A county or elected governing body of a federally recognized
10 American Indian tribe may assess a fee on a person who fails to comply with a plan
11 for recovering overpayments made under s. 49.19, if the person is no longer eligible
12 for benefits under s. 49.19. The fee may not exceed 10% of the amount remaining to
13 be recovered at the time of the noncompliance and may not be assessed more than
14 once with respect to the same overpayment. The fee may be retained by the county
15 or tribal governing body.

16 **SECTION 9.** 49.195 (5) of the statutes is created to read:

17 49.195 **(5)** The department may charge a county, or an elected governing body
18 of a federally recognized American Indian tribe or band, for the administrative costs
19 that are incurred by the department of health and social services and the department
20 of revenue and that are related to certifications under s. 46.254 (2) to recover
21 overpayments made under s. 49.19.

22 **SECTION 10.** 49.497 (2e) of the statutes is created to read:

23 49.497 **(2e)** A county or elected governing body of a federally recognized
24 American Indian tribe may assess a fee on a person who fails to comply with a plan
25 for recovering benefits distributed under s. 49.46, 49.468 or 49.47, if the person is no

1 longer eligible for benefits under those sections. The fee may not exceed 10% of the
2 amount remaining to be recovered at the time of the noncompliance and may not be
3 assessed more than once with respect to the same overpayment. The fee may be
4 retained by the county or tribal governing body.

5 **SECTION 11.** 49.497 (2m) of the statutes is created to read:

6 49.497 **(2m)** The department may charge a county, or an elected governing body
7 of a federally recognized American Indian tribe or band, for the administrative costs
8 that are incurred by the department of health and social services and the department
9 of revenue and that are related to certifications under s. 46.254 (2) to recover
10 payments made incorrectly for benefits under s. 49.46, 49.468 or 49.47.

11 **SECTION 12.** 71.93 (1) (a) 3. of the statutes is amended to read:

12 71.93 **(1)** (a) 3. An amount that the department of health and social services
13 ~~may recover~~ has determined to be due under s. 49.083, 49.125 (1) or (2m), 49.195 (3)
14 or (4m) or 49.497 (1) or (2e), if the department of health and social services has
15 certified the amount under s. 46.254.

16 (END)