DNOTE

State of Wisconsin
1999 – 2000 LEGISLATURE

LRB-3247/P~~1~~P5
JTK:wlj:ch

WANTED TUE 9/21

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

WPO: Inserts are out of order.

(regenerate)

AN ACT ***to repeal*** 108.04 (7) (i), 108.05 (1) (h) and (i), 108.18 (2) (b), 108.20 (5) to (9) and 108.22 (1) (a) 2. to 4.; ***to renumber and amend*** 108.22 (1) (a) 5.; ***to amend*** 20.445 (1) (gf), 20.445 (1) (n), 20.445 (1) (nb), 108.02 (4), 108.02 (12) (a), 108.02 (12) (b) (intro.), 108.04 (1) (b) 2., 108.04 (2) (a) 1., 108.04 (2) (a) 2., 108.04 (5), 108.04 (6), 108.04 (7) (b), 108.04 (7) (h), 108.04 (13) (d), 108.05 (1) (j) (intro.), 108.05 (3) (a), 108.09 (2) (bm), 108.09 (4s), 108.15 (3) (e), 108.15 (5) (b), 108.151 (1), 108.151 (5) (f), 108.16 (6m) (c), 108.18 (2) (c), 108.18 (9) (figure) Schedule C, line 1, 108.18 (9) (figure) Schedule D, line 1, 108.19 (1e) (a), 108.20 (3), 108.205 (2), 108.22 (1) (a) 1. and 108.22 (8) (c) 1. a. and b.; and ***to create*** 108.02 (4) (b), 108.02 (10g), 108.02 (12) (bm), 108.02 (15s), 108.02 (17m), 108.04 (1) (c), 108.04 (2) (a) 3., 108.04 (7) (cm), 108.04 (7) (s), 108.04 (11) (cm), 108.05 (1) (k) and (L), 108.05 (3) (c), 108.06 (2) (cm), 108.095, 108.161 (3e) and 108.22 (1) (ac) of the statutes; **relating to:** various changes in the unemployment insurance

law, granting rule–making authority, making appropriations and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes various changes in the unemployment insurance law. Significant provisions include:

BENEFIT RATE CHANGES

Currently, weekly unemployment compensation benefit rates for total unemployment range from $44 for an employe who earns wages (or certain other amounts treated as wages) of at least $1,100 during at least one quarter of the employe's base period (period preceding a claim during which benefit rights accrue) to $297 for an employe who earns wages (or certain other amounts treated as wages) of at least $7,425 during any such quarter. This bill adjusts weekly benefit rates for weeks of unemployment beginning on or after April 2, 2000, and before October 1, 2000, to rates ranging from $45 for an employe who earns wages (or certain other amounts treated as wages) of at least $1,125 during at least one quarter of the employe's base period to $305 for an employe who earns wages (or certain other amounts treated as wages) of at least $7,625 during any such quarter; and beginning on or after October 1, 2000, to rates ranging from $46 for an employe who earns wages (or certain other amounts treated as wages) of at least $1,150 during at least one quarter of the employe's base period to $313 for an employe who earns wages (or certain other amounts treated as wages) of at least $7,825 during any such quarter.

OTHER BENEFIT CHANGES

Partial unemployment

Currently, if a claimant earns wages in a given week, the first $30 of the wages are disregarded and the claimant's weekly benefit payment is reduced by 67% of the remaining amount of wages earned, but no claimant is eligible to receive benefits for any week if the benefits would be less than $5 and any wages that the claimant would have earned in any week for work performed for his or her employer had the claimant accepted available work from that employer are treated as wages earned for that week. Any amount that a claimant earns for services performed as a volunteer fire fighter or volunteer emergency medical technician in any week does not reduce the claimant's weekly benefit payment for that week. With certain exceptions, if a claimant works at least 35 hours in any given week for the employer that provided at least 80% of the wages or certain other payments that the claimant received during his or her base period (qualifying work period during which benefit rights accrue), the claimant is ineligible to receive any benefits for that week.

This bill provides, in addition, that a claimant is ineligible to receive any benefits for a week in which the claimant works a total of 40 or more hours in employment covered by the unemployment insurance law with one or more employers covered by that law.

Search for work

Currently, in order to receive benefits for a week in which a claimant earns no wages, a claimant must seek suitable work during that week, unless otherwise permitted by DWD by rule. This bill provides that, during the 104–week period beginning on the day the law resulting from the bill takes effect, in order to receive benefits for a week in which a claimant earns no wages, the claimant must conduct a reasonable search for suitable work during that week, unless otherwise permitted by DWD by rule. Under the bill, a reasonable search must include two actions each week that constitute a reasonable search as prescribed by DWD by rule.

Benefits payable during voluntary leaves of absence

Currently, an employe is ineligible to receive benefits while the employe is on a voluntary leave of absence granted for a definite period, until the period ends or until the employe returns to work, whichever occurs first. This bill provides that if an employe is granted a leave of absence for any portion ~~or portions~~ of a week, the employe's eligibility for benefits for that portion ~~or portions~~ of a week shall be reduced by the amount of wages that the employe could have earned had the leave not been granted, by treating the wages that the employe would have earned for work the employe would have performed during the leave as wages actually earned and applying the same method for computing benefits that is used to determine the benefits payable to employes who are partially unemployed.

Possession or use of controlled substances

Currently, if an employe is discharged for misconduct connected with his or her work which evinces wilful or wanton disregard of the employer's interests or carelessness or negligence in the performance of duties to such degree or recurrence as to manifest culpability or wrongful intent or exhibit such behavior as to endanger the physical safety of persons on the work site, the employe is ineligible to receive benefits until seven weeks have elapsed since the end of the week in which the discharge occurs and the employe earns wages after the week in which the discharge occurs equal to at least 14 times the employe's weekly benefit rate in employment covered by the unemployment compensation law of any state or the federal government. In addition, all wages earned with the employer that discharges the employe are excluded in determining the amount of any future benefits to which the employe is entitled. If an employe is suspended for good cause connected with his or her work, the employe is ineligible to receive benefits until three weeks have elapsed since the end of the week in which the suspension occurs or until the suspension is terminated, whichever occurs first. Under current law, DWD must prescribe, by rule, conditions under which an employe's possession, use or impairment due to use of a controlled substance (dangerous drug) or an employe's violation of a work rule relating to controlled substances testing constitutes misconduct or good cause for suspension for purposes of these provisions.

This bill deletes the requirement for DWD to promulgate this rule, thereby leaving determination of misconduct or good cause for suspension under these circumstances to be determined on a case–by–case basis.

Voluntary termination of employment

Currently, if an employe voluntarily terminates his or her employment with an employer, the employe is generally ineligible to receive benefits until four 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 four times the employe's weekly benefit rate in employment covered by the unemployment insurance law of any state or the federal government. However, an employe may terminate his or her employment and receive benefits without requalifying under this provision if the employe terminates his or her employment with good cause attributable to his or her employer. In addition, an employe may voluntarily terminate his or her employment and receive benefits without requalifying under this provision if the employe terminates his or her employment because the employe's employer made employment, compensation, promotion or job assignments contingent upon the employe's consent to sexual contact or sexual intercourse.

This bill eliminates the second exception relating to sexual contact or sexual intercourse, but specifically provides that "good cause" under the first exception includes sexual harassment by an employer or employer's agent of which the employer or agent knew or should have known but failed to take timely and appropriate corrective action.

The bill also creates a new exception which provides that an employe may voluntarily terminate his or her employment and receive benefits without requalifying if the employe terminates his or her employment due to domestic abuse, concerns about his or her personal safety or harassment or the personal safety or harassment of his or her children, the employe obtains a restraining order from a court in this state or another jurisdiction relating to domestic abuse, child abuse, harassment or contact with a vulnerable adult~~, regardless of whether the order is enforceable in this state,~~ and the employe demonstrates that the order has been or is reasonably likely to be violated.

In addition, the bill creates another new exception which provides that an employe may voluntarily terminate his or her work and receive benefits without requalifying if the employe terminates his or her work as the result of a requirement by his or her employer to transfer his or her working hours to a shift occurring at a time that would preclude the employe from providing child care to his or her minor children, provided that the employe remains able to work and available to perform work under the same conditions that applied to the employe's most recent work in employment covered under the unemployment insurance law.

Under the bill, the cost of benefits paid to an employe under the sexual harassment and child care exceptions is generally charged to the employer or employers that employed the employe during his or her base period (recent work period during which benefit rights accrue). The cost of benefits paid to an employe under the abuse, contact and harassment exception is charged to the balancing account of the unemployment reserve fund, which is financed from the contributions (taxes) of all employers that are subject to a requirement to pay contributions, unless

the employe's employer or employers do not pay contributions, in which case the cost of benefits is generally chargeable to the employe's employer or employers.

Employe status

Currently, in order to be eligible to claim benefits, an individual must, in addition to other requirements, be an "employe" as defined in the unemployment insurance law. Generally, an "employe" is an individual who performs services for an employer in employment covered under the unemployment insurance law, whether or not the individual is directly paid by the employer. However, an individual is not an "employe" if the individual performs services as an independent contractor. Except in the case of a logger or trucker performing services for an employer other than a governmental or nonprofit employer, to be considered an independent contractor, an individual must hold or have applied for an employer identification number with the federal internal revenue service or must have filed business or self–employment income tax returns with the federal internal revenue service in the previous year, and must meet at least six of eight other conditions concerning the individual's relationship to or direction or control over his or her business or the services that he or she performs. This bill provides instead, that during the four–year period following the day the bill becomes law, an independent contractor (other than a logger or trucker as currently provided) must meet at least seven of ten conditions concerning the individual's relationship to or control over his or her business or the services that he or she performs. Two of the conditions that an individual may use to qualify as an independent contractor require the individual to have a federal employer identification number or to have filed business or self–employment income tax returns with the federal internal revenue service based on the services performed as an independent contractor.

Definition of base period

Currently, an employe's eligibility for and amount of benefits are determined with reference to the employe's "base period", which is the work period consisting of the first four of the five most recently completed quarters at the time that an employe begins a "benefit year" (period during which benefits are payable). This bill provides that, if an employe does not qualify to receive any benefits using the current definition of "base period", the employe's base period shall be the four most recently completed quarters at the time that an employe begins a benefit year. Under the bill, an employe whose benefits are computed using the alternate base period may not reuse any wages for a subsequent benefit claim based on the current definition of "base period", except for payment of Wisconsin supplemental or federal extended benefits (these benefits are paid during periods of high unemployment).

TAX CHANGES

Solvency rate adjustment

Currently, all employers that engage employes in work that is covered under the unemployment insurance law, other than governmental and nonprofit employers that elect to pay directly for the cost of benefits, must pay contributions (taxes) to finance unemployment insurance benefits. The total contributions of an employer are the sum of the employer's contribution rate and the employer's solvency rate,

each of which vary with the employment stability of the employer and the solvency of the unemployment reserve fund, from which benefits are paid. An employer's contributions payable as a result of its contribution rate are credited to the employer's account, while an employer's contributions payable as a result of its solvency rate are credited to the fund's balancing account, which is used to fund benefits not payable from any employer's account. This bill decreases the solvency rate payable by employers having a taxable annual payroll for unemployment insurance purposes of less than $500,000 when the unemployment insurance fund has a balance of at least $900,000,000 to 0.02% of an employer's payroll to 0.00% of an employer's payroll.

Special assessments payable by certain new employers

Currently, if a new employer is required to pay contributions (taxes) to the unemployment reserve fund and the employer's account is overdrawn as of January 31 or June 30 following any of the first three calendar years that the employer is subject to a contribution requirement because the total benefits charged to the account exceed the total contributions credited to the account as of one of those dates, the employer must pay a special assessment to the unemployment reserve fund in the amount of 1.3% of the employer's annual taxable payroll for unemployment insurance purposes for the calendar year preceding the year in which the account is overdrawn. This bill repeals the requirement to pay this assessment.

Special assessments for information technology systems

Currently, each employer that is subject to a contribution requirement must pay an annual special assessment for each year prior to 2000 in an amount that may not exceed 0.01% of the employer's annual taxable payroll for unemployment insurance purposes for the purpose of financing the design or development of unemployment insurance information technology systems. The department of workforce development (DWD) must reduce the solvency rate that an employer must pay in each year prior to 2000 by the special assessment rate applicable to that employer for that year. (The solvency rate is the portion of an employer's contribution rate that is used to maintain the solvency of the unemployment reserve fund.) This bill makes the special assessment requirement and solvency rate offset applicable to calendar years 2000 and 2001.

OTHER CHANGES

Quarterly wage report format

Currently, each employer that is subject to the unemployment insurance law must file with DWD a quarterly report of the wages paid to each of its employes and certain other information. Employers of 250 or more employes must file the report using a medium approved by DWD. If an employer is delinquent in filing a report, the employer is subject to a tardy filing fee of $15 to $115, depending on the number of its employes. This bill applies this reporting requirement to all employers of 100 or more employes. The bill requires DWD to approve one or more electronic media for use in complying with the requirement, and requires each employer to report using such a medium. The bill also applies the electronic reporting requirement for not less than four complete quarters after an employer becomes subject to the

requirement. In addition, the bill changes the amounts of the tardy filing fees from not less than $25 to not more than $75, and permits DWD to assess a penalty against any employer that is subject to an electronic reporting requirement and that fails to report electronically in the amount of $10 for each employe whose information is not reported electronically.

Use of interest and penalty revenues

Currently, DWD collects interest on late payments required to be made to DWD by employers and various penalties for late payments and certain other infractions under the unemployment insurance law. The revenues from interest and penalties are used to finance administration of the unemployment insurance and other employment security programs, including employment security building construction costs and operation of public employment offices. This bill discontinues use of these interest and penalty revenues for employment security building construction and administrative purposes. Under the bill, the only authorized purpose for which these revenues may be used is unemployment insurance administration.

Fraudulent claims for benefits

Currently, if a person makes a false statement or representation in order to obtain benefits that are payable to another person, DWD may file a civil lawsuit to recover the amount of the benefits improperly paid. In addition, the person making the fraudulent statement or representation is guilty of a misdemeanor and is subject to a fine of not less than $100 nor more than $500 or imprisonment for not more than 90 days, or both, for each false statement or misrepresentation.

This bill provides, in addition, that DWD may, after an investigation ~~and hearing~~, issue an administrative determination requiring the repayment of any benefits that were payable to a person other than the claimant and that were obtained by means of a false statement or representation and may also require the offender to pay an additional amount equal to 50% of the amount of the benefits obtained. ~~Under the bill, the determination may be appealed to the labor and industry review commission and the decision of the commission may in turn be appealed to the courts.~~

~~Due date~~ for reimbursements

Currently, public employers and nonprofit organizations may elect, in lieu of paying contributions to the unemployment reserve fund, to reimburse the fund for any benefit payments made by the fund that are chargeable to these employers. Any reimbursement is due not later than 20 days after DWD mails a bill to an employer for the reimbursement. This bill provides that any reimbursement ~~is due on the 20th day after DWD mails a bill to an employer for a reimbursement or~~ the last day of the month in which ~~DWD mails a bill to an employer for a reimbursement, whichever is later.~~

Use of federal employment security moneys

Currently, federal moneys received by this state under the federal Reed Act of 1954 may be used to pay benefits or for employment security administration, including unemployment insurance, the public employment service and related

statistical operations. This bill provides, in accordance with federal law, that these moneys may only be used for the purpose of unemployment insurance administration in federal fiscal years 2000, 2001 and 2002.

Charging of certain improperly paid benefits

Currently, when DWD pays benefits to an employe improperly due to a departmental error, the account of the employer is not charged for the benefits. This bill removes conflicting language in current law to clarify that if the employer is subject to a requirement to pay contributions (taxes) to the unemployment reserve fund, the cost of any benefits that are improperly paid to an employe of the employer and that are not recovered from that employe is charged to the balancing account of the unemployment reserve fund. The bill also clarifies that if benefits are erroneously paid to an employe due to the fault of an employer, the cost of the benefits is charged to the employer's account rather than the balancing account regardless of whether the benefits may have been paid as a result of a departmental error.

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:

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

20.445 **(1)** (gf) ~~*Employment security*~~ *Unemployment insurance administration.* From the moneys received as interest and penalties collected under ss. 108.04 (11) (c) and (13) (c) and 108.22, the amounts in the schedule for the administration of ~~employment service programs and~~ unemployment insurance programs under ch. 108 ~~and s. 106.09~~ and federal or state unemployment insurance programs authorized by the governor under s. 16.54; and for payments to satisfy any federal audit exception concerning a payment from the unemployment reserve fund or any federal aid disallowance involving the unemployment insurance program.

SECTION 2. 20.445 (1) (n) of the statutes is amended to read:

20.445 **(1)** (n) *Unemployment administration; federal moneys.* All federal moneys received for the employment service under s. 106.09 (4) to (6), for the administration of unemployment insurance or for the performance of the

department's functions under ch. 108, and for its other efforts to regularize employment, to pay the compensation and expenses of appeal tribunals and of councils and to pay allowances stimulating education during unemployment, to be used for such purposes except as provided in s. 108.161 (3e), and to transfer to par. (nb) an amount determined by the treasurer of the unemployment reserve fund not exceeding the lesser of the amount specified in s. 108.161 (4) (d) or the amounts in the schedule under par. (nb).

SECTION 3. 20.445 (1) (nb) of the statutes is amended to read:

20.445 **(1)** (nb) *Unemployment information technology systems; federal moneys.* As a continuing appropriation, the amounts in the schedule, as authorized by the governor under s. 16.54, for the purpose specified in s. 108.19 (1e). All moneys transferred from par. (n) for this purpose shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the treasurer of the unemployment reserve fund shall transfer any unencumbered balance in this appropriation account that is not needed or available to carry out the purpose of this appropriation to the appropriation account under par. (n). No moneys may be expended from this appropriation unless the treasurer of the unemployment reserve fund determines that such expenditure is currently needed for the purpose specified in s. 108.19 (1e). ~~No moneys may be encumbered from this appropriation account after the beginning of the 3rd 12-month period beginning after May 21, 1998~~ May 22, 2002.

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

108.02 **(4)** BASE PERIOD. ~~An employe's "base~~ "Base period" means the period that is used to compute an employe's benefit rights under s. 108.06 consisting of ~~the~~:

(a) The first 4 of the 5 most recently completed quarters preceding the employe's benefit year~~, which is used to compute his or her benefit rights for that year under s. 108.06.~~; or

SECTION 5. 108.02 (4) (b) of the statutes is created to read:

108.02 **(4)** (b) If an employe does not qualify to receive any benefits using the period described in par. (a), the period consisting of the 4 most recently completed quarters preceding the employe's benefit year.

SECTION 6. 108.02 (10g) of the statutes is created to read:

108.02 **(10g)** DOMESTIC ABUSE. "Domestic abuse" means physical abuse, including a violation of s. 940.225 (1), (2) or (3), or a threat of physical abuse between adult family or adult household members, by an adult person against his or her spouse or former spouse ~~equivalent~~ or by an adult person against an adult person with whom the person has a child in common.

SECTION 7. 108.02 (12) (a) of the statutes is amended to read:

108.02 **(12)** (a) "Employe" means any individual who is or has been performing services for an employing unit, in an employment, whether or not the individual is paid directly by such employing unit; except as provided in par. (b), (bm), (c) or (d).

SECTION 8. 108.02 (12) (b) (intro.) of the statutes is amended to read:

108.02 **(12)** (b) (intro.) ~~Paragraph~~ During the period prior to the effective date of this paragraph .... [revisor inserts date], and the period after the last day of the 3rd year beginning after the effective date of this paragraph, ... [revisor inserts date], par. (a) does not apply to an individual performing services for an employing unit other than a government unit or nonprofit organization in a capacity other than as a logger or trucker, if the employing unit satisfies the department that:

SECTION 9. 108.02 (12) (bm) of the statutes is created to read:

9. The individual has recurring business liabilities or obligations that would continue beyond any specific relationship with a single employing unit.

10. The success or failure of the individual's business is not dependent on his or her relationship with a single employing unit.

SECTION 10. 108.02 (15s) of the statutes is created to read:

108.02 **(15s)** FAMILY MEMBER. "Family member" means a spouse, parent, child or person related by consanguinity to another person.

SECTION 11. 108.02 (17m) of the statutes is created to read:

108.02 **(17m)** HOUSEHOLD MEMBER. "Household member" means a person who is currently or formerly residing in a place of abode with another person.

SECTION 12. 108.04 (1) (b) 2. of the statutes is amended to read:

108.04 **(1)** (b) 2. While the employe is on a voluntary leave of absence granted for a definite period, until the period ends or until the employe returns to work, whichever occurs first, except as provided in par. (c); or

SECTION 13. 108.04 (1) (c) of the statutes is created to read:

108.04 **(1)** (c) If a leave of absence is granted to an employe for a portion of a week, the employe's eligibility for benefits for that partial week shall be reduced by the amount of wages that the employe could have earned in his or her work had the leave not been granted. For purposes of this paragraph, the department shall treat the amount the employe would have earned as wages in that work for that week as wages earned by the employe and shall apply the method specified in s. 108.05 (3) (a) to compute the benefits payable to the employe. The department shall estimate the wages that an employe would have earned for a partial week if it is not possible to compute the exact amount of wages that the employe would have earned for that partial week.

SECTION 14. 108.04 (2) (a) 1. of the statutes is amended to read:

108.04 **(2)** (a) 1. The individual is able to work and available for work ~~and is seeking suitable work~~ during that week; ~~and~~

108.02 **(12)** (bm) During the period beginning on the effective date of this paragraph .... [revisor inserts date], and ending on the last day of the 3rd year beginning after that date, par. (a) does not apply to an individual performing services for an employing unit in a capacity other than as a contract operator with a carrier or as a skidding operator or piece cutter with a forest products manufacturer or a logging contractor, if the employing unit satisfies the department that the individual meets 7 or more of the following conditions by contract and in fact:

1. The individual has a federal employer identification number.

2. The individual has filed business or self–employment income tax returns with the federal internal revenue service based on such services performed for that employing unit or other employing units.

3. The individual maintains a separate business with his or her own office, equipment and materials.

4. The individual controls the means and methods of performing such services, and makes such services available to other potential clients.

5. The individual incurs the main expenses related to the services that he or she performs for the employing unit.

6. The individual is responsible to the employing unit for the satisfactory completion of the services that he or she contracts to perform and is liable for a failure to satisfactorily complete the services.

7. The individual receives compensation for specific services and sets the rate of compensation with or without negotiation with the employing unit.

8. The individual may realize a profit or suffer a loss under contracts to perform such services.

SECTION 15. 108.04 (2) (a) 2. of the statutes is amended to read:

108.04 **(2)** (a) 2. As of that week, the individual has registered for work.; and

SECTION 16. 108.04 (2) (a) 3. of the statutes is created to read:

108.04 **(2)** (a) 3. The individual is seeking suitable work during that week or, during the 104–week period beginning on the effective date of this subdivision .... [revisor inserts date], the individual conducts a reasonable search for suitable work during that week. A reasonable search for suitable work under this subdivision must include 2 actions that constitute a reasonable search as prescribed by the department by rule.

SECTION 17. 108.04 (5) of the statutes is amended to read:

108.04 **(5)** DISCHARGE FOR MISCONDUCT. An employe whose work is terminated by an employing unit for misconduct connected with the employe's work is ineligible to receive benefits until 7 weeks have elapsed since the end of the week in which the discharge occurs and the employe earns wages after the week in which the discharge occurs equal to at least 14 times the employe's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance 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 discharge not occurred. The wages paid to an employe by an employer which terminates employment of the employe for misconduct connected with the employe's employment shall be excluded from the employe's base period wages under s. 108.06 (1) for purposes of benefit entitlement. ~~The department shall, by rule, prescribe the conditions under which an employe's possession, use or impairment due to use of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), or an employe's violation of a work rule relating to~~

~~controlled substances testing constitutes misconduct.~~ This subsection does not preclude an employe who has employment with an employer other than the employer which terminated the employe for misconduct from establishing a benefit year using the base period wages excluded under this subsection if the employe qualifies to establish a benefit year under s. 108.06 (2) (a). The department shall charge to the fund's balancing account any benefits otherwise chargeable to the account of an employer that is subject to the contribution requirements under ss. 108.17 and 108.18 from which base period wages are excluded under this subsection.

SECTION 18. 108.04 (6) of the statutes is amended to read:

108.04 **(6)** DISCIPLINARY SUSPENSION. An employe whose work is suspended by an employing unit for good cause connected with the employe's work is ineligible to receive benefits until 3 weeks have elapsed since the end of the week in which the suspension occurs or until the suspension is terminated, whichever occurs first. ~~The department shall, by rule, prescribe the conditions under which an employe's possession, use or impairment due to use of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), or an employe's violation of a work rule relating to controlled substances testing constitutes good cause for suspension.~~ This subsection does not preclude an employe from establishing a benefit year during a period in which the employe is ineligible to receive benefits under this subsection if the employe qualifies to establish a benefit year under s. 108.06 (2) (a).

SECTION 19. 108.04 (7) (b) of the statutes is amended to read:

108.04 **(7)** (b) Paragraph (a) does not apply if the department determines that the employe terminated his or her work with good cause attributable to the employing unit. In this paragraph, "good cause" includes, but is not limited to, a

request, suggestion or directive by the employing unit that the employe violate federal or Wisconsin law, or sexual harassment, as defined in s. 111.32 (13), by an employer or employer's agent, of which the employer or agent knew or should have known but failed to take timely and appropriate corrective action.

SECTION 20. 108.04 (7) (cm) of the statutes is created to read:

108.04 **(7)** (cm) Paragraph (a) does not apply if the department determines that the employe terminated his or her work as the result of a requirement by his or her employing unit to transfer his or her working hours to a shift occurring at a time that would preclude the employe from providing child care for his or her minor children, provided that the employe remains able to work and available for work under the same conditions that applied to the employe's most recent period of employment.

SECTION 21. 108.04 (7) (h) of the statutes is amended to read:

108.04 **(7)** (h) The department shall charge to the fund's balancing account benefits paid to an employe that are otherwise chargeable to the account of an employer that is subject to the contribution requirements of ss. 108.17 and 108.18 if the employe voluntarily terminates employment with that employer and par. (a), (c), (d), (e), (k), (L), (o), (p) ~~or~~, (q) or (s) applies.

SECTION 22. 108.04 (7) (i) of the statutes is repealed.

SECTION 23. 108.04 (7) (s) of the statutes is created to read:

108.04 **(7)** (s) 1. Paragraph (a) does not apply if the employe terminates his or her work due to domestic abuse, concerns about personal safety or harassment or concerns about the personal safety or harassment of his or her children, the employe obtains a restraining order under s. 813.12, 813.123, 813.125 or 813.127 or a similar statute, or has a foreign protection order recognized under s. 813.128, and the

employe demonstrates to the department that the order has been or is reasonably likely to be violated.

2. In determining whether a restraining order is reasonably likely to be violated under subd. 1., the department shall consider evidence, regardless of its age, including court, criminal, medical, law enforcement, child protective services, social services, psychological, school and similar records, and statements from persons other than the employe who have knowledge of circumstances related to the potential for violation of the order.

SECTION 24. 108.04 (11) (cm) of the statutes is created to read:

108.04 **(11)** (cm) Any person who makes a false statement or representation in order to obtain benefits that are payable to another person may, by a determination or decision issued under s. 108.095, be required to repay the amount of the benefits obtained and be required to forfeit an additional amount equal to not more than 50% of the amount of benefits obtained.

SECTION 25. 108.04 (13) (d) of the statutes is amended to read:

108.04 **(13)** (d) If the department finds that any benefits charged to an employer's account have been erroneously paid to an employe without fault by the employer, the department shall notify the employe and the employer of the erroneous payment. If recovery of an ~~overpayment~~ erroneous payment is permitted under s. 108.22 (8) (c) and benefits are currently payable to the employe from the employer's account, the department may correct the error by adjusting the benefits accordingly. To correct any erroneous payment not so adjusted~~, whenever recovery of an overpayment is permitted under s. 108.22 (8) (c)~~ that was charged to the account of an employer that is subject to the contribution requirements of ss. 108.17 and 108.18, the department shall restore the proper amount to the employer's account and

charge that amount to the fund's balancing account, and shall thereafter reimburse the balancing account by crediting to it benefits which would otherwise be payable to, or cash recovered from, the employe~~, unless the employer is a government unit or nonprofit organization which has elected reimbursement financing~~. To correct any erroneous payment not so adjusted from the account of an employer which is a government unit or a nonprofit organization and which has elected reimbursement financing, ~~whenever recovery of an overpayment is permitted under s. 108.22 (8) (c),~~ the department shall, if recovery of the erroneous payment is permitted under s. 108.22 (8) (c), credit to the account benefits which would otherwise be payable to, or cash received from, the employe, or if recovery of the erroneous payment is not permitted under s. 108.22 (8) (c), restore the proper amount to the employer's account and charge that amount in accordance with s. 108.07 (5).

SECTION 26. 108.05 (1) (h) and (i) of the statutes are repealed.

SECTION 27. 108.05 (1) (j) (intro.) of the statutes is amended to read:

108.05 **(1)** (j) (intro.) Each eligible employe shall be paid benefits for each week of total unemployment which commences on or after January 3, 1999, and before April 2, 2000, at the weekly benefit rate specified in this paragraph. Unless sub. (1m) applies, the weekly benefit rate shall equal 4% of the employe's base period wages which were paid during that quarter of the employe's base period in which the employe was paid the highest total wages, rounded down to the nearest whole dollar, except that if that amount is less than the minimum amount shown in the following schedule, no benefits are payable to the employe and if that amount is more than the maximum amount shown in the following schedule, the employe's weekly benefit rate shall be the maximum amount shown in the following schedule and except that if the employe's benefits are exhausted during any week under s. 108.06 (1), the

employe shall be paid the remaining amount of benefits payable to the employe in lieu of the amount shown in the following schedule: [See Figure 108.05 (1) (j) following]

SECTION 28. 108.05 (1) (k) and (L) of the statutes are created to read:

108.05 **(1)** (k) Each eligible employe shall be paid benefits for each week of total unemployment which commences on or after April 2, 2000, and before October 1, 2000, at the weekly benefit rate specified in this paragraph. Unless sub. (1m) applies, the weekly benefit rate shall equal 4% of the employe's base period wages which were paid during that quarter of the employe's base period in which the employe was paid the highest total wages, rounded down to the nearest whole dollar, except that if that amount is less than the minimum amount shown in the following schedule, no benefits are payable to the employe and if that amount is more than the maximum amount shown in the following schedule, the employe's weekly benefit rate shall be the maximum amount shown in the following schedule and except that if the employe's benefits are exhausted during any week under s. 108.06 (1), the employe shall be paid the remaining amount of benefits payable to the employe in

lieu of the amount shown in the following schedule: [See Figure 108.05 (1) (k) following]

Figure 108.05 (1) (k):

Line	Highest Quarterly Wages Paid			Weekly Benefit Rate
1.	Under		$1,125.00	$ 0
2.	1,125.00	to	1,149.99	45
3.	1,150.00	to	1,174.99	46
4.	1,175.00	to	1,199.99	47
5.	1,200.00	to	1,224.99	48
6.	1,225.00	to	1,249.99	49
7.	1,250.00	to	1,274.99	50
8.	1,275.00	to	1,299.99	51
9.	1,300.00	to	1,324.99	52
10.	1,325.00	to	1,349.99	53
11.	1,350.00	to	1,374.99	54
12.	1,375.00	to	1,399.99	55
13.	1,400.00	to	1,424.99	56
14.	1,425.00	to	1,449.99	57
15.	1,450.00	to	1,474.99	58
16.	1,475.00	to	1,499.99	59
17.	1,500.00	to	1,524.99	60

18.	1,525.00	to	1,549.99	61
19.	1,550.00	to	1,574.99	62
20.	1,575.00	to	1,599.99	63
21.	1,600.00	to	1,624.99	64
22.	1,625.00	to	1,649.99	65
23.	1,650.00	to	1,674.99	66
24.	1,675.00	to	1,699.99	67
25.	1,700.00	to	1,724.99	68
26.	1,725.00	to	1,749.99	69
27.	1,750.00	to	1,774.99	70
28.	1,775.00	to	1,799.99	71
29.	1,800.00	to	1,824.99	72
30.	1,825.00	to	1,849.99	73
31.	1,850.00	to	1,874.99	74
32.	1,875.00	to	1,899.99	75
33.	1,900.00	to	1,924.99	76
34.	1,925.00	to	1,949.99	77
35.	1,950.00	to	1,974.99	78
36.	1,975.00	to	1,999.99	79
37.	2,000.00	to	2,024.99	80
38.	2,025.00	to	2,049.99	81
39.	2,050.00	to	2,074.99	82
40.	2,075.00	to	2,099.99	83
41.	2,100.00	to	2,124.99	84

42.	2,125.00	to	2,149.99	85
43.	2,150.00	to	2,174.99	86
44.	2,175.00	to	2,199.99	87
45.	2,200.00	to	2,224.99	88
46.	2,225.00	to	2,249.99	89
47.	2,250.00	to	2,274.99	90
48.	2,275.00	to	2,299.99	91
49.	2,300.00	to	2,324.99	92
50.	2,325.00	to	2,349.99	93
51.	2,350.00	to	2,374.99	94
52.	2,375.00	to	2,399.99	95
53.	2,400.00	to	2,424.99	96
54.	2,425.00	to	2,449.99	97
55.	2,450.00	to	2,474.99	98
56.	2,475.00	to	2,499.99	99
57.	2,500.00	to	2,524.99	100
58.	2,525.00	to	2,549.99	101
59.	2,550.00	to	2,574.99	102
60.	2,575.00	to	2,599.99	103
61.	2,600.00	to	2,624.99	104
62.	2,625.00	to	2,649.99	105
63.	2,650.00	to	2,674.99	106
64.	2,675.00	to	2,699.99	107
65.	2,700.00	to	2,724.99	108

66.	2,725.00	to	2,749.99		109
67.	2,750.00	to	2,774.99		110
68.	2,775.00	to	2,799.99		111
69.	2,800.00	to	2,824.99		112
70.	2,825.00	to	2,849.99		113
71.	2,850.00	to	2,874.99		114
72.	2,875.00	to	2,899.99		115
73.	2,900.00	to	2,924.99		116
74.	2,925.00	to	2,949.99		117
75.	2,950.00	to	2,974.99		118
76.	2,975.00	to	2,999.99		119
77.	3,000.00	to	3,024.99		120
78.	3,025.00	to	3,049.99		121
79.	3,050.00	to	3,074.99		122
80.	3,075.00	to	3,099.99		123
81.	3,100.00	to	3,124.99		124
82.	3,125.00	to	3,149.99		125
83.	3,150.00	to	3,174.99		126
84.	3,175.00	to	3,199.99		127
85.	3,200.00	to	3,224.99		128
86.	3,225.00	to	3,249.99		129
87.	3,250.00	to	3,274.99		130
88.	3,275.00	to	3,299.99		131
89.	3,300.00	to	3,324.99		132

90.	3,325.00	to	3,349.99		133
91.	3,350.00	to	3,374.99		134
92.	3,375.00	to	3,399.99		135
93.	3,400.00	to	3,424.99		136
94.	3,425.00	to	3,449.99		137
95.	3,450.00	to	3,474.99		138
96.	3,475.00	to	3,499.99		139
97.	3,500.00	to	3,524.99		140
98.	3,525.00	to	3,549.99		141
99.	3,550.00	to	3,574.99		142
100.	3,575.00	to	3,599.99		143
101.	3,600.00	to	3,624.99		144
102.	3,625.00	to	3,649.99		145
103.	3,650.00	to	3,674.99		146
104.	3,675.00	to	3,699.99		147
105.	3,700.00	to	3,724.99		148
106.	3,725.00	to	3,749.99		149
107.	3,750.00	to	3,774.99		150
108.	3,775.00	to	3,799.99		151
109.	3,800.00	to	3,824.99		152
110.	3,825.00	to	3,849.99		153
111.	3,850.00	to	3,874.99		154
112.	3,875.00	to	3,899.99		155
113.	3,900.00	to	3,924.99		156

114.	3,925.00	to	3,949.99	157
115.	3,950.00	to	3,974.99	158
116.	3,975.00	to	3,999.99	159
117.	4,000.00	to	4,024.99	160
118.	4,025.00	to	4,049.99	161
119.	4,050.00	to	4,074.99	162
120.	4,075.00	to	4,099.99	163
121.	4,100.00	to	4,124.99	164
122.	4,125.00	to	4,149.99	165
123.	4,150.00	to	4,174.99	166
124.	4,175.00	to	4,199.99	167
125.	4,200.00	to	4,224.99	168
126.	4,225.00	to	4,249.99	169
127.	4,250.00	to	4,274.99	170
128.	4,275.00	to	4,299.99	171
129.	4,300.00	to	4,324.99	172
130.	4,325.00	to	4,349.99	173
131.	4,350.00	to	4,374.99	174
132.	4,375.00	to	4,399.99	175
133.	4,400.00	to	4,424.99	176
134.	4,425.00	to	4,449.99	177
135.	4,450.00	to	4,474.99	178
136.	4,475.00	to	4,499.99	179
137.	4,500.00	to	4,524.99	180

138.	4,525.00	to	4,549.99	181
139.	4,550.00	to	4,574.99	182
140.	4,575.00	to	4,599.99	183
141.	4,600.00	to	4,624.99	184
142.	4,625.00	to	4,649.99	185
143.	4,650.00	to	4,674.99	186
144.	4,675.00	to	4,699.99	187
145.	4,700.00	to	4,724.99	188
146.	4,725.00	to	4,749.99	189
147.	4,750.00	to	4,774.99	190
148.	4,775.00	to	4,799.99	191
149.	4,800.00	to	4,824.99	192
150.	4,825.00	to	4,849.99	193
151.	4,850.00	to	4,874.99	194
152.	4,875.00	to	4,899.99	195
153.	4,900.00	to	4,924.99	196
154.	4,925.00	to	4,949.99	197
155.	4,950.00	to	4,974.99	198
156.	4,975.00	to	4,999.99	199
157.	5,000.00	to	5,024.99	200
158.	5,025.00	to	5,049.99	201
159.	5,050.00	to	5,074.99	202
160.	5,075.00	to	5,099.99	203
161.	5,100.00	to	5,124.99	204

162.	5,125.00	to	5,149.99	205
163.	5,150.00	to	5,174.99	206
164.	5,175.00	to	5,199.99	207
165.	5,200.00	to	5,224.99	208
166.	5,225.00	to	5,249.99	209
167.	5,250.00	to	5,274.99	210
168.	5,275.00	to	5,299.99	211
169.	5,300.00	to	5,324.99	212
170.	5,325.00	to	5,349.99	213
171.	5,350.00	to	5,374.99	214
172.	5,375.00	to	5,399.99	215
173.	5,400.00	to	5,424.99	216
174.	5,425.00	to	5,449.99	217
175.	5,450.00	to	5,474.99	218
176.	5,475.00	to	5,499.99	219
177.	5,500.00	to	5,524.99	220
178.	5,525.00	to	5,549.99	221
179.	5,550.00	to	5,574.99	222
180.	5,575.00	to	5,599.99	223
181.	5,600.00	to	5,624.99	224
182.	5,625.00	to	5,649.99	225
183.	5,650.00	to	5,674.99	226
184.	5,675.00	to	5,699.99	227
185.	5,700.00	to	5,724.99	228

186.	5,725.00	to	5,749.99	229
187.	5,750.00	to	5,774.99	230
188.	5,775.00	to	5,799.99	231
189.	5,800.00	to	5,824.99	232
190.	5,825.00	to	5,849.99	233
191.	5,850.00	to	5,874.99	234
192.	5,875.00	to	5,899.99	235
193.	5,900.00	to	5,924.99	236
194.	5,925.00	to	5,949.99	237
195.	5,950.00	to	5,974.99	238
196.	5,975.00	to	5,999.99	239
197.	6,000.00	to	6,024.99	240
198.	6,025.00	to	6,049.99	241
199.	6,050.00	to	6,074.99	242
200.	6,075.00	to	6,099.99	243
201.	6,100.00	to	6,124.99	244
202.	6,125.00	to	6,149.99	245
203.	6,150.00	to	6,174.99	246
204.	6,175.00	to	6,199.99	247
205.	6,200.00	to	6,224.99	248
206.	6,225.00	to	6,249.99	249
207.	6,250.00	to	6,274.99	250
208.	6,275.00	to	6,299.99	251
209.	6,300.00	to	6,324.99	252

210.	6,325.00	to	6,349.99	253
211.	6,350.00	to	6,374.99	254
212.	6,375.00	to	6,399.99	255
213.	6,400.00	to	6,424.99	256
214.	6,425.00	to	6,449.99	257
215.	6,450.00	to	6,474.99	258
216.	6,475.00	to	6,499.99	259
217.	6,500.00	to	6,524.99	260
218.	6,525.00	to	6,549.99	261
219.	6,550.00	to	6,574.99	262
220.	6,575.00	to	6,599.99	263
221.	6,600.00	to	6,624.99	264
222.	6,625.00	to	6,649.99	265
223.	6,650.00	to	6,674.99	266
224.	6,675.00	to	6,699.99	267
225.	6,700.00	to	6,724.99	268
226.	6,725.00	to	6,749.99	269
227.	6,750.00	to	6,774.99	270
228.	6,775.00	to	6,799.99	271
229.	6,800.00	to	6,824.99	272
230.	6,825.00	to	6,849.99	273
231.	6,850.00	to	6,874.99	274
232.	6,875.00	to	6,899.99	275
233.	6,900.00	to	6,924.99	276

234.	6,925.00	to	6,949.99	277
235.	6,950.00	to	6,974.99	278
236.	6,975.00	to	6,999.99	279
237.	7,000.00	to	7,024.99	280
238.	7,025.00	to	7,049.99	281
239.	7,050.00	to	7,074.99	282
240.	7,075.00	to	7,099.99	283
241.	7,100.00	to	7,124.99	284
242.	7,125.00	to	7,149.99	285
243.	7,150.00	to	7,174.99	286
244.	7,175.00	to	7,199.99	287
245.	7,200.00	to	7,224.99	288
246.	7,225.00	to	7,249.99	289
247.	7,250.00	to	7,274.99	290
248.	7,275.00	to	7,299.99	291
249.	7,300.00	to	7,324.99	292
250.	7,325.00	to	7,349.99	293
251.	7,350.00	to	7,374.99	294
252.	7,375.00	to	7,399.99	295
253.	7,400.00	to	7,424.99	296
254.	7,425.00	to	7,449.99	297
255.	7,450.00	to	7,474.99	298
256.	7,475.00	to	7,499.99	299
257.	7,500.00	to	7,524.99	300

258.	7,525.00	to	7,549.99	301
259.	7,550.00	to	7,574.99	302
260.	7,575.00	to	7,599.99	303
261.	7,600.00	to	7,624.99	304
262.	7,625.00		and over	305

(L) Each eligible employe shall be paid benefits for each week of total unemployment which commences on or after October 1, 2000, at the weekly benefit rate specified in this paragraph. Unless sub. (1m) applies, the weekly benefit rate shall equal 4% of the employe's base period wages which were paid during that quarter of the employe's base period in which the employe was paid the highest total wages, rounded down to the nearest whole dollar, except that if that amount is less than the minimum amount shown in the following schedule, no benefits are payable to the employe and if that amount is more than the maximum amount shown in the following schedule, the employe's weekly benefit rate shall be the maximum amount shown in the following schedule and except that if the employe's benefits are exhausted during any week under s. 108.06 (1), the employe shall be paid the

remaining amount of benefits payable to the employe in lieu of the amount shown in the following schedule: [See Figure 108.05 (1) (L) following]

Figure 108.05 (1) (L):

Line	Highest Quarterly Wages Paid			Weekly Benefit Rate
1.	Under	$1,150.00		$ 0
2.	1,150.00	to 1,174.99		46
3.	1,175.00	to 1,199.99		47
4.	1,200.00	to 1,224.99		48
5.	1,225.00	to 1,249.99		49
6.	1,250.00	to 1,274.99		50
7.	1,275.00	to 1,299.99		51
8.	1,300.00	to 1,324.99		52
9.	1,325.00	to 1,349.99		53
10.	1,350.00	to 1,374.99		54
11.	1,375.00	to 1,399.99		55
12.	1,400.00	to 1,424.99		56
13.	1,425.00	to 1,449.99		57
14.	1,450.00	to 1,474.99		58
15.	1,475.00	to 1,499.99		59
16.	1,500.00	to 1,524.99		60
17.	1,525.00	to 1,549.99		61

18.	1,550.00	to	1,574.99	62
19.	1,575.00	to	1,599.99	63
20.	1,600.00	to	1,624.99	64
21.	1,625.00	to	1,649.99	65
22.	1,650.00	to	1,674.99	66
23.	1,675.00	to	1,699.99	67
24.	1,700.00	to	1,724.99	68
25.	1,725.00	to	1,749.99	69
26.	1,750.00	to	1,774.99	70
27.	1,775.00	to	1,799.99	71
28.	1,800.00	to	1,824.99	72
29.	1,825.00	to	1,849.99	73
30.	1,850.00	to	1,874.99	74
31.	1,875.00	to	1,899.99	75
32.	1,900.00	to	1,924.99	76
33.	1,925.00	to	1,949.99	77
34.	1,950.00	to	1,974.99	78
35.	1,975.00	to	1,999.99	79
36.	2,000.00	to	2,024.99	80
37.	2,025.00	to	2,049.99	81
38.	2,050.00	to	2,074.99	82
39.	2,075.00	to	2,099.99	83
40.	2,100.00	to	2,124.99	84
41.	2,125.00	to	2,149.99	85

42.	2,150.00	to	2,174.99	86
43.	2,175.00	to	2,199.99	87
44.	2,200.00	to	2,224.99	88
45.	2,225.00	to	2,249.99	89
46.	2,250.00	to	2,274.99	90
47.	2,275.00	to	2,299.99	91
48.	2,300.00	to	2,324.99	92
49.	2,325.00	to	2,349.99	93
50.	2,350.00	to	2,374.99	94
51.	2,375.00	to	2,399.99	95
52.	2,400.00	to	2,424.99	96
53.	2,425.00	to	2,449.99	97
54.	2,450.00	to	2,474.99	98
55.	2,475.00	to	2,499.99	99
56.	2,500.00	to	2,524.99	100
57.	2,525.00	to	2,549.99	101
58.	2,550.00	to	2,574.99	102
59.	2,575.00	to	2,599.99	103
60.	2,600.00	to	2,624.99	104
61.	2,625.00	to	2,649.99	105
62.	2,650.00	to	2,674.99	106
63.	2,675.00	to	2,699.99	107
64.	2,700.00	to	2,724.99	108
65.	2,725.00	to	2,749.99	109

66.	2,750.00	to	2,774.99	110
67.	2,775.00	to	2,799.99	111
68.	2,800.00	to	2,824.99	112
69.	2,825.00	to	2,849.99	113
70.	2,850.00	to	2,874.99	114
71.	2,875.00	to	2,899.99	115
72.	2,900.00	to	2,924.99	116
73.	2,925.00	to	2,949.99	117
74.	2,950.00	to	2,974.99	118
75.	2,975.00	to	2,999.99	119
76.	3,000.00	to	3,024.99	120
77.	3,025.00	to	3,049.99	121
78.	3,050.00	to	3,074.99	122
79.	3,075.00	to	3,099.99	123
80.	3,100.00	to	3,124.99	124
81.	3,125.00	to	3,149.99	125
82.	3,150.00	to	3,174.99	126
83.	3,175.00	to	3,199.99	127
84.	3,200.00	to	3,224.99	128
85.	3,225.00	to	3,249.99	129
86.	3,250.00	to	3,274.99	130
87.	3,275.00	to	3,299.99	131
88.	3,300.00	to	3,324.99	132
89.	3,325.00	to	3,349.99	133

90.	3,350.00	to	3,374.99	134
91.	3,375.00	to	3,399.99	135
92.	3,400.00	to	3,424.99	136
93.	3,425.00	to	3,449.99	137
94.	3,450.00	to	3,474.99	138
95.	3,475.00	to	3,499.99	139
96.	3,500.00	to	3,524.99	140
97.	3,525.00	to	3,549.99	141
98.	3,550.00	to	3,574.99	142
99.	3,575.00	to	3,599.99	143
100.	3,600.00	to	3,624.99	144
101.	3,625.00	to	3,649.99	145
102.	3,650.00	to	3,674.99	146
103.	3,675.00	to	3,699.99	147
104.	3,700.00	to	3,724.99	148
105.	3,725.00	to	3,749.99	149
106.	3,750.00	to	3,774.99	150
107.	3,775.00	to	3,799.99	151
108.	3,800.00	to	3,824.99	152
109.	3,825.00	to	3,849.99	153
110.	3,850.00	to	3,874.99	154
111.	3,875.00	to	3,899.99	155
112.	3,900.00	to	3,924.99	156
113.	3,925.00	to	3,949.99	157

114.	3,950.00	to	3,974.99	158
115.	3,975.00	to	3,999.99	159
116.	4,000.00	to	4,024.99	160
117.	4,025.00	to	4,049.99	161
118.	4,050.00	to	4,074.99	162
119.	4,075.00	to	4,099.99	163
120.	4,100.00	to	4,124.99	164
121.	4,125.00	to	4,149.99	165
122.	4,150.00	to	4,174.99	166
123.	4,175.00	to	4,199.99	167
124.	4,200.00	to	4,224.99	168
125.	4,225.00	to	4,249.99	169
126.	4,250.00	to	4,274.99	170
127.	4,275.00	to	4,299.99	171
128.	4,300.00	to	4,324.99	172
129.	4,325.00	to	4,349.99	173
130.	4,350.00	to	4,374.99	174
131.	4,375.00	to	4,399.99	175
132.	4,400.00	to	4,424.99	176
133.	4,425.00	to	4,449.99	177
134.	4,450.00	to	4,474.99	178
135.	4,475.00	to	4,499.99	179
136.	4,500.00	to	4,524.99	180
137.	4,525.00	to	4,549.99	181

138.	4,550.00	to	4,574.99	182
139.	4,575.00	to	4,599.99	183
140.	4,600.00	to	4,624.99	184
141.	4,625.00	to	4,649.99	185
142.	4,650.00	to	4 ,674.99	186
143.	4,675.00	to	4,699.99	187
144.	4,700.00	to	4,724.99	188
145.	4,725.00	to	4,749.99	189
146.	4,750.00	to	4,774.99	190
147.	4,775.00	to	4,799.99	191
148.	4,800.00	to	4,824.99	192
149.	4,825.00	to	4,849.99	193
150.	4,850.00	to	4,874.99	194
151.	4,875.00	to	4,899.99	195
152.	4,900.00	to	4,924.99	196
153.	4,925.00	to	4,949.99	197
154.	4,950.00	to	4,974.99	198
155.	4,975.00	to	4,999.99	199
156.	5,000.00	to	5,024.99	200
157.	5,025.00	to	5,049.99	201
158.	5,050.00	to	5,074.99	202
159.	5,075.00	to	5,099.99	203
160.	5,100.00	to	5,124.99	204
161.	5,125.00	to	5,149.99	205

162.	5,150.00	to	5,174.99		206
163.	5,175.00	to	5,199.99		207
164.	5,200.00	to	5,224.99		208
165.	5,225.00	to	5,249.99		209
166.	5,250.00	to	5,274.99		210
167.	5,275.00	to	5,299.99		211
168.	5,300.00	to	5,324.99		212
169.	5,325.00	to	5,349.99		213
170.	5,350.00	to	5,374.99		214
171.	5,375.00	to	5,399.99		215
172.	5,400.00	to	5,424.99		216
173.	5,425.00	to	5,449.99		217
174.	5,450.00	to	5,474.99		218
175.	5,475.00	to	5,499.99		219
176.	5,500.00	to	5,524.99		220
177.	5,525.00	to	5,549.99		221
178.	5,550.00	to	5,574.99		222
179.	5,575.00	to	5,599.99		223
180.	5,600.00	to	5,624.99		224
181.	5,625.00	to	5,649.99		225
182.	5,650.00	to	5,674.99		226
183.	5,675.00	to	5,699.99		227
184.	5,700.00	to	5,724.99		228
185.	5,725.00	to	5,749.99		229

186.	5,750.00	to	5,774.99	230
187.	5,775.00	to	5,799.99	231
188.	5,800.00	to	5,824.99	232
189.	5,825.00	to	5,849.99	233
190.	5,850.00	to	5,874.99	234
191.	5,875.00	to	5,899.99	235
192.	5,900.00	to	5,924.99	236
193.	5,925.00	to	5,949.99	237
194.	5,950.00	to	5,974.99	238
195.	5,975.00	to	5,999.99	239
196.	6,000.00	to	6,024.99	240
197.	6,025.00	to	6,049.99	241
198.	6,050.00	to	6,074.99	242
199.	6,075.00	to	6,099.99	243
200.	6,100.00	to	6,124.99	244
201.	6,125.00	to	6,149.99	245
202.	6,150.00	to	6,174.99	246
203.	6,175.00	to	6,199.99	247
204.	6,200.00	to	6,224.99	248
205.	6,225.00	to	6,249.99	249
206.	6,250.00	to	6,274.99	250
207.	6,275.00	to	6,299.99	251
208.	6,300.00	to	6,324.99	252
209.	6,325.00	to	6,349.99	253

210.	6,350.00	to	6,374.99	254
211.	6,375.00	to	6,399.99	255
212.	6,400.00	to	6,424.99	256
213.	6,425.00	to	6,449.99	257
214.	6,450.00	to	6,474.99	258
215.	6,475.00	to	6,499.99	259
216.	6,500.00	to	6,524.99	260
217.	6,525.00	to	6,549.99	261
218.	6,550.00	to	6,574.99	262
219.	6,575.00	to	6,599.99	263
220.	6,600.00	to	6,624.99	264
221.	6,625.00	to	6,649.99	265
222.	6,650.00	to	6,674.99	266
223.	6,675.00	to	6,699.99	267
224.	6,700.00	to	6,724.99	268
225.	6,725.00	to	6,749.99	269
226.	6,750.00	to	6,774.99	270
227.	6,775.00	to	6,799.99	271
228.	6,800.00	to	6,824.99	272
229.	6,825.00	to	6,849.99	273
230.	6,850.00	to	6,874.99	274
231.	6,875.00	to	6,899.99	275
232.	6,900.00	to	6,924.99	276
233.	6,925.00	to	6,949.99	277

234.	6,950.00	to	6,974.99	278
235.	6,975.00	to	6,999.99	279
236.	7,000.00	to	7,024.99	280
237.	7,025.00	to	7,049.99	281
238.	7,050.00	to	7,074.99	282
239.	7,075.00	to	7,099.99	283
240.	7,100.00	to	7,124.99	284
241.	7,125.00	to	7,149.99	285
242.	7,150.00	to	7,174.99	286
243.	7,175.00	to	7,199.99	287
244.	7,200.00	to	7,224.99	288
245.	7,225.00	to	7,249.99	289
246.	7,250.00	to	7,274.99	290
247.	7,275.00	to	7,299.99	291
248.	7,300.00	to	7,324.99	292
249.	7,325.00	to	7,349.99	293
250.	7,350.00	to	7,374.99	294
251.	7,375.00	to	7,399.99	295
252.	7,400.00	to	7,424.99	296
253.	7,425.00	to	7,449.99	297
254.	7,450.00	to	7,474.99	298
255.	7,475.00	to	7,499.99	299
256.	7,500.00	to	7,524.99	300
257.	7,525.00	to	7,549.99	301

258.	7,550.00	to	7,574.99			302
259.	7,575.00	to	7,599.99			303
260.	7,600.00	to	7,624.99			304
261.	7,625.00	to	7,649.99			305
262.	7,650.00	to	7,674.99			306
263.	7,675.00	to	7,699.99			307
264.	7,700.00	to	7,724.99			308
265.	7,725.00	to	7,749.99			309
266.	7,750.00	to	7,774.99			310
267.	7,775.00	to	7,799.99			311
268.	7,800.00	to	7,824.99			312
269.	7,825.00		and over			313

SECTION 29. 108.05 (3) (a) of the statutes is amended to read:

108.05 **(3)** (a) Except as provided in ~~par.~~ pars. (b) and (c), if an eligible employe earns wages in a given week, the first $30 of the wages shall be disregarded and the employe's applicable weekly benefit payment shall be reduced by 67% of the remaining amount, except that no such employe is eligible for benefits if the employe's benefit payment would be less than $5 for any week. For purposes of this paragraph, "wages" includes any salary reduction amounts earned that are not wages and that are deducted from the salary of a claimant by an employer pursuant to a salary reduction agreement under a cafeteria plan, within the meaning of 26 USC 125, and any amount that a claimant would have earned in available work which is treated as wages under s. 108.04 (1) (a), but excludes any amount that a claimant earns for services performed as a volunteer fire fighter or volunteer

emergency medical technician. In applying this paragraph, the department shall disregard discrepancies of less than $2 between wages reported by employes and employers.

SECTION 30. 108.05 (3) (c) of the statutes is created to read:

108.05 **(3)** (c) A claimant is ineligible to receive any benefits for a week in which the claimant works a total of 40 or more hours in employment with one or more employers.

SECTION 31. 108.06 (2) (cm) of the statutes is created to read:

108.06 **(2)** (cm) If an employe qualifies to receive benefits using the base period described in s. 108.02 (4) (b), the wages used to compute the employe's benefit entitlement are not available for use in any subsequent benefit computation for the same employe, except under s. 108.141 or 108.142.

SECTION 32. 108.09 (2) (bm) of the statutes is amended to read:

108.09 **(2)** (bm) In determining whether an individual meets the conditions specified in s. 108.02 (12) (b) 2. a. or b. or (bm) 3. or 4., the department shall not consider documents granting operating authority or licenses, or any state or federal laws or federal regulations granting such authority or licenses.

SECTION 33. 108.09 (4s) of the statutes is amended to read:

108.09 **(4s)** EMPLOYE STATUS. In determining whether an individual meets the conditions specified in s. 108.02 (12) (b) 2. a. or b. or (bm) 3. or 4., the appeal tribunal shall not take administrative notice of or admit into evidence documents granting operating authority or licenses, or any state or federal laws or federal regulations granting such authority or licenses.

SECTION 34. 108.095 of the statutes is created to read:

108.095 False statements or representations to obtain benefits payable to other persons. **(1)** The procedures under this section apply to any issue arising under this chapter concerning any alleged false statement or representation of a person to obtain benefits that are payable to another person, and are in addition to any determination, decision or other procedure provided under s. 108.09. The procedures under this section apply whether or not a penalty for an offense is provided under s. 108.24.

(2) The department shall investigate whether any person has obtained benefits that were payable to another person by means of any false statement or representation, and may issue an initial determination concerning its findings. The department shall mail a copy of the determination to the last–known address of each party affected thereby. Unless designated by a determination under this section, an employing unit is not a party to the determination. The department may set aside or amend the determination at any time prior to a hearing concerning the determination under sub. (5) on the basis of subsequent information or to correct a mistake, including an error of law.

(3) Any party to a determination may appeal that determination by requesting a hearing concerning any matter in that determination if the request is received by the department or postmarked within 14 days after the mailing.

(4) Upon issuance of a determination, the department is a party to the determination.

(5) Any hearing shall be held before an appeal tribunal appointed under s. 108.09 (3). Section 108.09 (4) and (5) applies to the proceeding before the tribunal.

(6) Any party may petition the commission for review of the decision of the appeal tribunal under s. 108.09 (6). The commission's authority to take action

concerning any issue or proceeding under this section is the same as that provided in s. 108.09 (6).

(7) Any party may commence an action for judicial review of a decision of the commission under this section, after exhausting the remedies provided under this section, by commencing the action within 30 days after the decision of the commission is mailed to the department and the last–known address of each other party. The scope and manner of judicial review is the same as that provided in s. 108.09 (7).

(8) The mailing of determinations and decisions under this section shall be first class, and may include the use of services performed by the postal service requiring the payment of extra fees.

(9) Section 108.09 (8) (b) applies to representation and fees for representation of parties in proceedings under this section.

SECTION 35. 108.15 (3) (e) of the statutes is amended to read:

108.15 **(3)** (e) Each time a government unit elects or reelects contribution financing its initial contribution rate shall be 2.7% on its payroll for each of the first 3 calendar years in which such election or reelection is in effect~~, plus any contributions payable under s. 108.18 (2) (b)~~. If a government unit terminates its election of contribution financing it may not reelect contribution financing within a period of 3 calendar years thereafter.

SECTION 36. 108.15 (5) (b) of the statutes is amended to read:

108.15 **(5)** (b) The department shall monthly bill each government unit for any reimbursements required under this section, and any reimbursement thus billed shall be due and shall be paid by such government unit within 20 days after the date

such bill is mailed to ~~it~~ the government unit ~~by the department~~ or by the last day of the month in which the bill is mailed, whichever is later.

SECTION 37. 108.151 (1) of the statutes is amended to read:

108.151 **(1)** EMPLOYER'S CONTRIBUTION RATE. Each nonprofit organization which is or becomes an employer subject to this chapter shall be subject to all its provisions except as it may elect reimbursement financing in accordance with sub. (2). If such an approved election is terminated, the employer's contribution rate shall be 2.7% on its payroll for each of the next 3 calendar years~~, plus any contributions payable under s. 108.18 (2) (b)~~.

SECTION 38. 108.151 (5) (f) of the statutes is amended to read:

108.151 **(5)** (f) Whenever an employer's reimbursement account has a negative balance as of the close of any calendar month, the fund's treasurer shall promptly bill such employer, at its last–known address, for that portion of its negative balance which has resulted from the net benefits charged to such account within such month. Reimbursement payment shall be due within 20 days ~~thereafter~~ after the date such bill is mailed to the employer by the department or by the last day of the month in which the bill is mailed, whichever is later. Any required payment which remains unpaid after its applicable due date is a delinquent payment. Section 108.22 shall apply for collecting ~~delinquent payments~~.

SECTION 39. 108.16 (6m) (e) of the statutes is amended to read:

108.16 **(6m)** (e) Any overpayment of benefits that is written off under sub. (3), unless it is chargeable to an employer's account under s. 108.04 (13) (c) ~~or (d)~~.

SECTION 40. 108.161 (3e) of the statutes is created to read:

108.161 **(3e)** Notwithstanding sub. (3), any moneys provided under section 903 of the federal Social Security Act for federal fiscal years 2000, 2001 and 2002 shall be used solely for unemployment insurance administration.

SECTION 41. 108.18 (2) (b) of the statutes is repealed.

SECTION 42. 108.18 (2) (c) of the statutes is amended to read:

108.18 **(2)** (c) An employer engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects shall pay contributions for each of the first 3 calendar years at the average rate for construction industry employers as determined by the department on each computation date, rounded up to the next highest rate~~, except as additional contributions apply under par. (b)~~. This rate may in no case be more than the maximum rate specified in the schedule in effect for the year of the computation under sub. (4).

SECTION 43. 108.18 (9) (figure) Schedule C, line 1 of the statutes is amended to read:

108.18 **(9)** (figure) Schedule C

1	0.00	~~0.02~~ 0.00	0.05

SECTION 44. 108.18 (9) (figure) Schedule D, line 1 of the statutes is amended to read:

108.18 **(9)** (figure) Schedule D

1	0.00	~~0.02~~ 0.00	0.05

SECTION 45. 108.19 (1e) (a) of the statutes is amended to read:

108.19 **(1e)** (a) Except as provided in par. (b), each employer, other than an employer which finances benefits under s. 108.15 or 108.151 shall, in addition to

other contributions payable under s. 108.18 and this section, pay an assessment to the administrative account for each year prior to the year ~~2000~~ 2002 equal to the lesser of 0.01% of its payroll for that year or the solvency contribution that would otherwise be payable by the employer under s. 108.18 (9) for that year.

SECTION 46. 108.20 (3) of the statutes is amended to read:

108.20 **(3)** There shall be included in the moneys governed by sub. (2m) any amounts collected by the department under ss. 108.04 (11) (c) and 108.22 (1) (a) and (ac) as tardy filing fees, forfeitures ~~or~~, interest on delinquent payments or other penalties and any excess moneys collected under s. 108.19 (1m).

SECTION 47. 108.20 (5) to (9) of the statutes are repealed.

SECTION 48. 108.205 (2) of the statutes is amended to read:

108.205 **(2)** All employers of ~~250~~ 100 or more employes, as determined under s. 108.22 (1) (ae), shall file the quarterly report under sub. (1) using ~~an~~ electronic medium approved by the department for such employers. The department shall prescribe one or more electronic media that employers may use for compliance with this subsection. An employer that becomes subject to the reporting requirement under this subsection shall continue to file its quarterly report under this subsection for the next 4 quarters beginning after the quarter in which the employer becomes subject to the reporting requirement and in each subsequent quarter through the 4th quarter beginning after the quarter in which the employer has less than 100 employes.

SECTION 49. 108.22 (1) (a) 1. of the statutes is amended to read:

108.22 **(1)** (a) 1. For 1 to 100 employes, ~~$15~~ $25.

SECTION 50. 108.22 (1) (a) 2. to 4. of the statutes are repealed.

SECTION 51. 108.22 (1) (a) 5. of the statutes is renumbered 108.22 (1) (a) 2. and amended to read:

108.22 **(1)** (a) 2. For more than ~~400~~ 100 employes, ~~$115~~ $75.

SECTION 52. 108.22 (1) (ac) of the statutes is created to read:

108.22 **(1)** (ac) In addition to any fee assessed under par. (a), an employer that is subject to the reporting requirement under s. 108.205 (2) and that fails to file its report in the format prescribed under that subsection may be assessed a penalty of $10 for each employe whose information is not reported in the format prescribed under s. 108.205 (2).

SECTION 53. 108.22 (8) (c) 1. a. and b. of the statutes are amended to read:

108.22 **(8)** (c) 1. a. The ~~overpayment~~ erroneous payment was the result of a departmental error~~, whether or not an~~ and was not the fault of any employer ~~is also at fault~~ under s. 108.04 (13) (f); and

b. The ~~overpayment~~ erroneous payment did not result from the fault of an employe as provided in s. 108.04 (13) (f), or because of a claimant's false statement or misrepresentation.

SECTION 54. Appropriation changes.

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of workforce development under section 20.445 (1) (nb) of the statutes, as affected by the acts of 1999, the dollar amount is increased by $–0– for fiscal year 1999–00 and the dollar amount is increased by $–0– for fiscal year 2000–01 to increase funding for the purpose for which the appropriation is made.

SECTION 55. Initial applicability.

(1) The treatment of sections 108.02 (4) and 108.06 (2) (cm) of the statutes first applies to benefit years beginning on April 2, 2000.

(2) The treatment of sections 108.02 (12) (a), (b) (intro.) and (bm) and 108.09 (2) (bm) and (4s) of the statutes first applies with respect to determinations issued under section 108.10 of the statutes on the effective date of this subsection or, in relation to determinations that are appealed, to decisions issued under section 108.10 of the statutes on April 2, 2000.

(3) The treatment of section 108.04 (1) (b) 2. and (c) of the statutes first applies with respect to leaves of absence commencing on the effective date ~~determinations issued under section 108.09 of the statutes on the effective date of this subsection~~ of this subsection ~~or, in relation to determinations that are appealed, to decisions issued under section 108.09 of the statutes on April 2, 2000.~~

(4) The treatment of section 108.04 (2) (a) 1., 2. and 3. of the statutes first applies with respect to weeks of unemployment beginning on the effective date of this subsection.

(5) The treatment of section 108.04 (7) (b) and (i) of the statutes first applies with respect to terminations commencing on the effective date ~~determinations issued under section 108.09 of the statutes on the effective date of this subsection~~ of this subsection ~~or, in relation to determinations that are appealed, to decisions issued under section 108.09 of the statutes on April 2, 2000.~~

(6) The treatment of section 108.04 (7) (cm) of the statutes first applies with respect to determinations issued under section 108.09 of the statutes on the effective date of this subsection or, in relation to determinations that are appealed, to decisions issued under section 108.09 of the statutes on April 2, 2000.

(7) The treatment of section 108.04 (7) (h) and (s) of the statutes first applies with respect to terminations commencing on the effective date of this subsection ~~benefit years that begin on the effective date of this subsection for which a termination of employment does not affect an employe's eligibility under any claim filed before that date.~~

(8) The treatment of sections 108.04 (11) (cm) and 108.095 of the statutes first applies with respect to false statements and representations made on the effective date of this subsection.

(9) The treatment of section 108.05 (3) (a) and (c) of the statutes first applies with respect to weeks of unemployment beginning on April 2, 2000.

(10) The treatment of sections 108.15 (5) (b) and 108.151 (5) (f) of the statutes first applies to reimbursements billed in the month following the month that includes the effective date of this subsection.

(11) The treatment of section 108.18 (9) (figure) Schedule C and Schedule D of the statutes first applies with respect to payrolls beginning on January 1, 2001.

(12) The treatment of sections 108.20 (3), 108.205 (2) and 108.22 (1) (a) 1. to 5. and (ac) of the statutes first applies with respect to reports due for the calendar quarter ending on March 31, 2001.

SECTION 56. Effective dates. This act takes effect on the first Sunday after publication, except as follows:

(1) The treatment of sections 108.15 (3) (e), 108.151 (1) and 108.18 (2) (b) and (c) of the statutes takes effect on January 1, 2000.

(END)

JTK549-16

SECTION 164. Nonstatutory provisions; transitional provisions.

(1) DEFINITIONS. In this SECTION:

(a) "Department" means the department of workforce development.

(b) "Employer" has the meaning given in section 108.02 (13) of the statutes.

~~(2) LEVY IN YEAR IN WHICH THIS SUBSECTION TAKES EFFECT. Notwithstanding section 108.19 (1e) (b) of the statutes, as created by this act, if this subsection takes effect in any year before April 1, the department may, no later than the 14th day commencing after the effective date of this subsection, publish a notice under that paragraph of an assessment to be levied against employers under section 108.19 (1e) of the statutes, as created by this act, in the year in which this subsection takes effect.~~

(2) NOTICE OF LEVY FOR YEAR 2000.

~~LEVY IN YEAR AFTER THIS SUBSECTION TAKES EFFECT.~~ Notwithstanding section 108.19 (1e) (b) of the statutes, ~~as created by this act,~~ if this subsection takes effect ~~in any year~~ after November 30, 1999, the department may, no later than the ~~14th~~ 30th day commencing after the effective date of this subsection, publish a notice under that paragraph of an assessment to be levied against employers under section 108.19 (1e) of the statutes, as created by this act, in the year 2000 ~~following the year in which this subsection takes effect~~.

~~SECTION 165. Initial applicability.~~

(1) The treatment of section 108.05 (2) (c) of the statutes first applies with respect to weeks of unemployment beginning on January 4, 1998.

(2) The treatment of section 108.02 (12) (b) (intro.) and (c) (intro.) of the statutes first applies with respect to services performed after December 31, 1997.

(3) The treatment of section 108.04 (4) (a) of the statutes first applies with respect to benefit years which begin on the effective date of this subsection.

TW S49-9:1

Section #. 108.22 (1) (b) of the statutes is amended to read:

108.22 **(1)** (b) If the due date of a report or payment under s. 108.16 (8), 108.17 (2) or 108.205 would otherwise be a Saturday, Sunday or legal holiday under state or federal law, the due date is the next following day which is not a Saturday, Sunday or legal holiday under state or federal law.

108.15(5)(b), 108.151(5)(f)

History: 1973 c. 247; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 343; 1979 c. 52; 1981 c. 36; 1985 a. 17, 29; 1987 a. 38; 1989 a. 77; 1991 a. 89; 1993 a. 112, 373; 1995 a. 224; 1997 a. 39.

TWS 49-9:2

Section #. 108.22 (1) (c) of the statutes is amended to read:

108.22 **(1)** (c) Any report or payment, except a payment required by s. 108.15 (5) (b) or 108.151 (5) (f), to which this subsection applies is delinquent, within the meaning of par. (a), unless it is received by the department, in the form prescribed by law or rule of the department, no later than its due date as determined under par. (b), 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. Any payment required by s. 108.15 (5) (b) or 108.151 (5) (f) is delinquent, within the meaning of par. (a), unless it is received by the department, in the form prescribed by law, no later than ~~its due date~~ the last day of the month in which it is due.

~~History: 1973 c. 247; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 343; 1979 c. 52; 1981 c. 36; 1985 a. 17, 29; 1987 a. 38; 1989 a. 77; 1991 a. 89; 1993 a. 112, 373; 1995 a. 224; 1997 a. 39.~~

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3247/P5dn
JTK...../...../.....
WL

This redraft addresses all the items you transmitted in your memo of September 13. It also includes the items we discussed at our meeting on September 14 [elimination of the sunset on expenditures under s. 20.445 (1) (nb), stats., and provision for a special notice of assessment under s. 108.19 (1e), stats., for year 2000]. I have received your memo of September 17 but it will take a while to get through that and I thought that ~~meanwhile~~ in the meantime I would send you the updated text.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266–6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3247/P5dn
JTK:wlj:hmh

September 20, 1999

This redraft addresses all the items you transmitted in your memo of September 13. It also includes the items we discussed at our meeting on September 14 [elimination of the sunset on expenditures under s. 20.445 (1) (nb), stats., and provision for a special notice of assessment under s. 108.19 (1e), stats., for year 2000]. I have received your memo of September 17 but it will take a while to get through that and I thought that in the meantime I would send you the updated text.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266–6778

CORRESPONDENCE/MEMORANDUM State of Wisconsin

Department of Workforce Development
Bureau of Legal Affairs
(608) 267-1406

DATE: 9/17/99
TO: Jeff Kuesel
FROM: Michelle Kho
RE: Bill Draft Revisions – No. 2

Jeff – We are still expecting suggestions from the different bureaus on changes they wish to make relating to the 9/13/99 bill draft. I am trying to send you the revisions in a staggered fashion to give you sufficient time and flexibility (every couple of days) to work on changes. We expect to send the last of the changes no later than 9/24/99, which we hope will leave enough time to come up with a bill by 9/29 or sooner. If that doesn't give you enough time, please let me know. We know you have the budget bill to contend with.

In the meantime, here are some changes to be made.

Note: I hope this will make things simpler – where applicable, I will refer and make changes to the sections in the most recent version of the bill draft (LRB-3247/P4).

Domestic abuse quit exception provision

Reference to section 813.122 (reference to child abuse restraining orders) was inadvertently left out of this draft proposal and needs to be added. Also, I am adding some numbering and changing language a little to make sections relating to the quit exception for domestic abuse proposal (I hope) clearer.

✓ **Amend SECTION 23:**

108.04 (7) (s)

1. Paragraph (a) does not apply if the employe

   a. terminates his or her work due to domestic abuse, concerns about personal safety or harassment, ~~or concerns about~~ the ~~personal~~ safety or harassment of his or her ~~children~~ family members who reside with the employe, or the safety or harassment of other household members;

   b. has obtain~~ed~~ a restraining order prior to quitting under s. 813.12, 813.122, 813.123, 813.125 or 813.127~~ or a similar statute~~, or has a foreign protection order recognized under s. 813.128~~,~~; and

   c. demonstrates to the department that the order has been or is reasonably likely to be violated.

2. In determining whether a restraining order is reasonably likely to be violated under subd. 1., the department shall consider evidence, regardless of its age, ~~including~~ from sources which include civil court, criminal court, family court, ~~medical~~ hospitals, physicians, law enforcement, child protective services, social services, psychological services, schools ~~and similar records~~, and ~~statements from~~ persons other than the employe who have knowledge of circumstances related to the potential for violation of the order.

Amend SECTION 6:

108.02 (10g) DOMESTIC ABUSE. "Domestic abuse" means physical abuse, including a violation of s. 940.225 (1), (2) or (3), or a threat of physical abuse

(a) ~~between~~ by an adult family or adult household members~~,~~ against another family or household member;

(b) by an adult person against his or her spouse or former spouse ~~equivalent~~; or

(c) by an adult person against ~~an adult~~ person with whom the person has a child in common.

Clarification of law relating to reimbursement of employer accounts when there is no employer fault

Changes include adding numbering to make the section easier to read.

Amend SECTION 39:

108.16 (6m) (e) Any overpayment of benefits that is written off under sub. (3), unless it is chargeable to an employer's account under s. 108.04 (13) (c) or (d).

Amend SECTION 25:

108.04 (13) (d) 1. If the department finds that any benefits charged to an employer's account have been erroneously paid to an employe without fault by the employer, the department shall notify the employe and the employer of the erroneous payment.

2. If recovery of an overpayment ~~erroneous payment~~ is permitted under s.108.22 (8) (c) and benefits are currently payable to the employe from the employer's account, the department may correct the error by adjusting the benefits accordingly.

3. To correct any ~~erroneous~~ overpayment not so adjusted that was charged to the account of an employer that is subject to the contribution requirements of ss. 108.17 and 108.18, the department shall:

a. if recovery of the overpayment is permitted under s. 108.22 (8) (c), restore the proper amount to the employer's account and charge that amount to the fund's balancing account, and shall thereafter reimburse the balancing account by crediting to it benefits which would otherwise be payable to, or cash recovered from, the employe~~, unless the employer is a government unit or nonprofit organization which has elected reimbursement financing~~; or

b. if recovery of the overpayment is not permitted under s. 108.22(8)(c), restore the proper amount to the employer's account and charge that amount to the fund's balancing account.

4. To correct any erroneous payment not so adjusted from the account of an employer which is a government unit or a nonprofit organization and which has elected reimbursement financing, ~~whenever recovery of an overpayment is permitted under s. 108.22 (8) (c),~~ the department shall~~,~~:

a. if recovery of the ~~erroneous~~ overpayment is permitted under s. 108.22 (8) (c), credit to the account benefits which would otherwise be payable to, or cash received from, the employe; or

b. if recovery of the ~~erroneous~~ overpayment is not permitted under s. 108.22 (8) (c), restore the proper amount to the employer's account and charge that amount in accordance with s. 108.07 (5).

Employee/Independent Contractor Provision

In management proposal #2, we changed current language in 108.02(12) by doing two things:

(1) changing the threshold requirement that a worker have filed/applied for a FEIN or self-employment tax forms from a mandatory requirement to two of 10 optional factors; and

(2) making multiple small changes to language among the optional factors in the second part of the section (requiring that the individual meets 6 of the 8 conditions)

Since we drafted the proposal, council members decided that we should only implement the first change (above) and not the second change. So all the small language

changes we made can be removed and returned to the current language. The changes (essentially returning the language to the current 108.02(12) language) are set forth below:

Jeff, we want the employee/indep. Contractor section below to have a 4-yr sunset period. Is the "3rd year" reference below correct?

Amend SECTION 9. 108.02 (12) (bm):

108.02 (12) (bm) During the period beginning on the effective date of this paragraph .... [revisor inserts date], and ending on the last day of the 3rd year beginning after that date, par. (a) does not apply to an individual performing services for an employing unit in a capacity other than as a contract operator with a carrier or as a skidding operator or piece cutter with a forest products manufacturer or a logging contractor, if the employing unit satisfies the department that the individual meets 7 or more of the following conditions by contract and in fact:

1. The individual holds or has applied for a federal employer identification number.

2. The individual has filed business or self–employment income tax returns with the federal internal revenue service based on such services in the previous year. ~~performed for this or other employing units.~~

3. The individual maintains a separate business with his or her own office, equipment, ~~and~~ materials~~.~~ and other facilities.

4. The individual operates under contracts to perform specific services for specific amounts of money and under which the individual controls the means and methods of performing such services~~, and makes such business services available to other potential clients~~.

~~5.~~ The individual incurs the main expenses related to the services that he or she performs under contract ~~for the employing unit~~.

6. The individual is responsible ~~to the employing unit~~ for the satisfactory completion of the services that he or she contracts to perform and is liable for a failure to satisfactorily complete the services.

7. The individual receives compensation for ~~specific~~ services performed under a contract on a commission or per-job or competitive-bid basis and not on any other basis ~~and sets the rate of compensation with or without negotiation with the employing unit~~.

8. The individual may realize a profit or suffer a loss under contracts to perform services.

~~9.~~ The individual has recurring business liabilities or obligations ~~that would continue beyond any specific relationship with a single employing unit.~~

10. The success or failure of the individual's business depends on the relationship of business receipts to expenditures ~~is not dependent on his or her relationship with a single employing unit.~~

Other

✓ Jeff – on p. 45, in § 34 sub (8), shouldn't the comma be removed to be grammatically correct?

✓ Jeff – in line 1 on p. 47, could we change the word "provided" to "allocated" (reference is to Reed Act distributions)?

Revisions to bill analyses

✗ p. 4 in section on "Voluntary termination of employment", last full par. on the page: remove the end of the last sentence that says "in employment covered under the unemployment insurance law"

✓ p.6 in section on "Solvency rate adjustment" (top of page) the last sentence should say ". .. $900,000,000 ~~to~~ from 0.02% of an employer's payroll to 0.00% of an employer's payroll."