



(DNOTE)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3682/P2 P3

wanted THU 9/20 AM

JTK...jf
↑
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(regenerate)

1 AN ACT ~~to renumber and amend 108.09 (3) (a); to amend 20.445 (1) (nb) (title),~~
2 ~~108.02 (15) (j) 4. and 5., 108.04 (7) (h), 108.04 (8) (c), 108.04 (16) (b), 108.05 (7)~~
3 ~~(a) 1., 108.05 (7) (f) 1., 108.16 (8) (b) (intro.), 108.16 (8) (b) 2., 108.16 (8) (f)~~
4 ~~108.19 (1e) (a) and (d), 108.20 (3), 108.205 (2), 108.22 (1) (am), 108.22 (1m)~~
5 ~~108.225 (1) (a) to (c) and 108.225 (16) (intro.); and to create 108.02 (15) (j) 6.,~~
6 ~~108.09 (3) (a) 2., 108.14 (2e), 108.14 (19), 108.16 (8) (c) 4., 108.16 (8) (e) 4., 108.17~~
7 ~~(2e), 108.205 (3) and 108.22 (1) (ad)~~ of the statutes; relating to: various
8 changes in the unemployment insurance law, ^{appointment of temporary reserve appeal} requiring the exercise of
9 rule-making authority and making an appropriation. _{tribunals}

Analysis by the Legislative Reference Bureau

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

OTHER BENEFIT CHANGES

Offset of social security benefits

Currently, with certain exceptions, if benefits are payable to a claimant for any week for which the claimant receives a pension payment from a governmental or other retirement system (including the social security system) maintained or

WSIA

contributed to by an employer for which the claimant worked during his or her base period (recent work period during which benefit rights accrue), the benefits received by the claimant for each week are reduced by the amount of the pension payment received for that week, except that if the payment is received under the social security act, the benefits received by the claimant for each week are reduced by 50% of the gross amount of the social security payment received for that week. This bill provides that, beginning with the first full week of 2003, all payments received by a claimant under the social security act are not included in determining the amount of any required unemployment insurance benefit reduction.

The bill also provides that for all weeks beginning in 2002, the benefits received by a claimant for each week in which the claimant receives a payment under the social security act are reduced by only 25% of the gross amount of the social security payment received by the claimant for that week.

Requalification for employees receiving certain training

Currently, with certain exceptions, if an employee is unable to work or unavailable for work, has not registered for work, or is not seeking suitable work, the employee's benefits are reduced or the employee is ineligible to receive benefits. Also currently with certain exceptions, if an employee fails, without good cause, to accept suitable work when offered or to return to work when recalled by his or her employer, the employee is ineligible to receive benefits for the next 4 full weeks and until the employee requalifies by earning a specified amount of wages in certain employment. One exception permits an employee to receive benefits without requalifying if the employee enrolls in or leaves work to participate in training approved under the federal Trade Readjustment Act. This bill also permits an employee to receive benefits without requalifying if the employee enrolls in or leaves work to participate in training under a state plan approved under the federal Workforce Investment Act. The cost of benefits paid to an employee under the current exception is generally charged to the employer or employers that employed the employee during his or her base period. Under this bill, the cost of benefits resulting from the current exception and the proposed exception is charged to the balancing account of the unemployment reserve fund, which is financed from contributions (taxes) of all employers that are subject to a requirement to pay contributions, unless the employee's employer or employers do not pay contributions, in which case the cost of benefits is generally chargeable to the employee's employer or employers.

Charging of certain benefits paid after recall

Currently, if an employee fails, without good cause, to return to work with a former employer that recalls the employee within 52 weeks after the employee last worked for the employer, the employee is ineligible to receive benefits for the next 4 full weeks and until the employee requalifies by earning a specified amount of wages in certain employment. Currently, the cost of benefits paid to an employee who fails, without good cause, to return to work with an employer after the employee requalifies is generally charged to the employer or employers that employed the employee during his or her base period. Under this bill, the cost of benefits is charged to the balancing account of the unemployment reserve fund, unless the employee's

employer or employers do no pay contributions, in which case the cost of benefits is generally chargeable to the employee's employer or employers.

TAX CHANGES

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 2002 in an amount that may not exceed the lesser of 0.01% of the employer's annual taxable payroll for unemployment insurance purposes or the employer's solvency contribution for that year for the purpose of financing the renovation and modernization of the unemployment insurance tax and accounting system. The department of workforce development (DWD) must reduce the solvency rate that an employer must pay in each year prior to 2002 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 2002 and 2003. The bill also permits DWD to use the revenue generated by the assessments for the design, or development of unemployment insurance information technology systems generally, including the tax and accounting system.

OTHER CHANGES

Rule making

The bill directs DWD to submit proposed rule changes to the legislative council staff no later than the first day of the 11th month after the day the bill becomes law to:

1. Decrease the number of hours per week that a claimant must remain available for work in order to receive benefits from 35 to 32.
2. Establish a specified level of repeated absenteeism or repeated tardiness that will permit an employer to terminate an employee without being required to pay the cost of any benefits for which the employee may qualify resulting from the base period applicable to the date of termination, and that will preclude the employee from receiving benefits without requalifying by working for a specified period and receiving a specified amount. (Currently, the degree of absenteeism or tardiness that permits such action varies depending upon the facts of each case.)
3. Specify, in accordance with applicable administrative and judicial interpretations, what constitutes an "establishment" for purposes of a current disqualification from receipt of benefits because of a labor dispute in the establishment in which an employee is or was employed.

The bill also directs DWD to promulgate an emergency rule no later than the 90th day after the bill becomes law to extend the current deadline for filing an initial claim for benefits from the end of the initial week for which benefits are payable to the end of the following week. Currently, emergency rules are generally effective for no more than 150 days. Under the bill, this emergency rule is effective until the first day of the 11th month after the day the bill becomes law or the day on which a permanent rule relating to this subject matter becomes effective, whichever is sooner, and no finding of emergency is required to promulgate the emergency rule.

Coverage of certain nonresident aliens

Currently, the services of nonresident aliens who are lawfully admitted to the United States are potentially subject to contribution requirements (taxes) under the state unemployment insurance law and employees who are lawfully admitted, nonresident aliens are potentially eligible to claim benefits. This bill eliminates coverage of services performed by certain kinds of nonresident aliens who are lawfully admitted to the United States under certain specified visas, thereby eliminating contribution requirements for services performed by these individuals and precluding these individuals from claiming benefits. The change applies retroactively to January 1, 2001.

Contribution ~~and~~ wage report format

Currently, each employer that is subject to the unemployment insurance law must file with DWD periodic reports of contributions (taxes) ~~and wages paid to each of its employees and certain other information. Employers of 100 or more employees must file the wage reports electronically.~~ This bill provides that, if an employer retains an agent to file contribution ~~or wage~~ reports and the agent files contribution ~~or wage~~ reports on behalf of 25 or more employers, the agent must file the contribution ~~or wage~~ reports electronically, ~~regardless of the number of employees employed by an employer on behalf of which the agent files reports.~~ Under the bill, employer agents that are subject to this requirement and that fail to file their reports electronically may be assessed a penalty of \$25 for each employer whose report is not filed electronically.

Temporary reserve appeal tribunals

Currently, DWD employs individuals to serve as "appeal tribunals," who hear and decide appeals of initial determinations made by employees of DWD with respect to unemployment insurance matters. With limited exceptions, these individuals must be permanent employees of DWD. This bill permits DWD to employ an individual who formerly served as an appeal tribunal, and who retired from state service as a permanent employee, to serve as a temporary reserve appeal tribunal. The individual must be an attorney who is licensed to practice in this state. ~~Under the bill, these individuals are compensated on a per diem basis.~~

Electronic submissions

Under current state law, unless otherwise provided, any document that may be submitted in writing to a state agency and that requires a signature may, with the consent of the agency, be submitted in electronic format. Federal law may also require or permit state agencies to accept certain documents electronically. This bill specifically permits DWD to provide a secure means of electronic interchange between itself and employing units, claimants, and other customers which, upon request of a customer, may be used to submit electronically any document that is used in the administration of the unemployment insurance law in lieu of any other means of submission. The bill also provides that if a due date is established by statute for the submission of any document that is submitted electronically, then that submission is timely only if the document is submitted by midnight of that due date.

7/15
4A

Liens for unpaid reimbursements and certain forfeitures

Currently, if an employer owes any contributions (taxes), interest, or fees to DWD, DWD has a lien on the employer's real and personal property located in this state at the time that DWD issues any initial determinations of liability, unless the lien is temporarily barred or stayed under bankruptcy or other insolvency law. This bill provides that DWD has a lien under the same conditions for any unpaid civil penalties imposed by DWD under the unemployment insurance law and for unpaid reimbursements of benefits payable by an employer that has elected to reimburse the unemployment reserve fund for benefits paid on its behalf instead of making contributions to the fund.

Administrative levies to collect certain liabilities

Currently, a governmental or nonprofit employer is generally permitted to elect to finance benefit payments by reimbursing the unemployment reserve fund for the cost of benefits charged to its account instead of by paying regular contributions (taxes) to finance these benefits. If a reimbursement is not paid when due, DWD may collect the reimbursement by bringing a lawsuit against the debtor in circuit court. This bill permits DWD to administratively levy against any property other than realty of a person who fails to pay a reimbursement when due. Under the levy procedure, the person in possession of property that is subject to levy must surrender the property to DWD and DWD applies the property to offset the amount owed by the owner, plus the expenses of the levy.

Currently, DWD may proceed against any third party that has in its possession property that is subject to levy for payment of delinquent contributions or penalties administratively assessed by DWD, or for repayment of benefit overpayments. A third party is not liable for more than 25% of the debt owed by the original debtor. This bill permits DWD to use the levy procedure to recover property owed to DWD by third parties, subject to the current limitations, for unpaid contributions and penalties and benefit overpayments that have not been repaid, as well as for unpaid reimbursements.

The bill also permits DWD to administratively levy against the property of any person who fails to pay fees assessed by DWD under the unemployment insurance law.

Partial successorship

Currently, if at least 25% of a business is transferred from one employer to another employer and the transferee requests DWD to treat it as a successor to the transferor for purposes of unemployment insurance experience, including contribution and benefit liability, DWD must treat the transferee as a successor, instead of treating it as a new employer, under certain conditions. This bill precludes a transferee from requesting that it be treated as a successor to a transferor unless 100% of the transferor's business is transferred to a single transferee, except that the bill requires that a transferee be treated as a successor under certain conditions, if 100% of the transferor's business is transferred to the transferee or if the transferor's unemployment insurance account is overdrawn on the date of the transfer.

Fraud detection and prosecution.

This bill requires DWD to furnish annually to the council on unemployment insurance a report summarizing DWD's activities related to detection and prosecution of unemployment insurance fraud. Currently, so such report is required.

Funding and position changes

This bill authorizes 15 federally funded project positions for DWD to carry out unemployment insurance information technology system redesign projects. The bill also appropriates \$250,000 from revenue received by DWD for interest, penalties, and fees for unemployment insurance purposes to be used to pay for employment service expenses that were disallowed as federally aided costs.

Space 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.** 20.445 (1) (nb) (title) of the statutes is amended to read:

2 20.445 (1) (nb) (title) ~~*Unemployment tax and accounting system*~~ *information*
3 ~~*technology systems; federal moneys.*~~

4 **SECTION 2.** 108.02 (15) (j) 4. and 5. of the statutes are amended to read:

5 108.02 (15) (j) 4. In the employ of a hospital by a patient of such hospital; or

6 5. In any quarter in the employ of any organization exempt from federal income
7 tax under section 501 (a) of the internal revenue code, other than an organization
8 described in section 401 (a) or 501 (c) (3) of such code, or under section 521 of the
9 internal revenue code, if the remuneration for such service is less than \$50.; ~~or~~

10 **SECTION 3.** 108.02 (15) (j) 6. of the statutes is created to read:

11 108.02 (15) (j) 6. By a nonresident alien for the period that he or she is
12 temporarily present in the United States as a nonimmigrant under 8 USC 1101 (a)
13 (15) (F), (J), (M), or (Q), if the service is performed to carry out the purpose for which
14 the alien is admitted to the United States, as provided in 8 USC 1101 (a) (15) (F), (J),
15 (M), or (Q), or by the spouse or minor child of such an alien if the spouse or child was

1 also admitted to the United States under 8 USC 1101 (a) (15) (F), (J), (M), or (Q) for
2 the same purpose.

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

4 108.04 (7) (h) The department shall charge to the fund's balancing account
5 benefits paid to an employee that are otherwise chargeable to the account of an
6 employer that is subject to the contribution requirements of ss. 108.17 and 108.18
7 if the employee voluntarily terminates employment with that employer and par. (a),
8 (c), (d), (e), (k), (L), (o), (p), (q) or (s) or sub. (16) (b) applies.

9 SECTION 5. 108.04 (8) (c) of the statutes is amended to read:

10 108.04 (8) (c) If an employee fails, without good cause, to return to work with
11 a former employer that recalls the employee within 52 weeks after the employee last
12 worked for that employer, the employee is ineligible to receive benefits until 4 weeks
13 have elapsed since the end of the week in which the failure occurs and the employee
14 earns wages after the week in which the failure occurs equal to at least 4 times the
15 employee's weekly benefit rate under s. 108.05 (1) in employment or other work
16 covered by the unemployment insurance law of any state or the federal government.
17 For purposes of requalification, the employee's weekly benefit rate shall be that rate
18 which would have been paid had the failure not occurred. This paragraph does not
19 preclude an employee from establishing a benefit year during a period in which the
20 employee is ineligible to receive benefits under this paragraph if the employee
21 qualifies to establish a benefit year under s. 108.06 (2) (a). The department shall
22 charge to the fund's balancing account any benefits otherwise chargeable to the
23 account of any employer that is subject to the contribution requirements under ss.
24 108.17 and 108.18 whenever an employee of that employer fails, without good cause,

1 to return to work with that employer: If an employee receives actual notice of a recall
2 to work, par. (a) applies in lieu of this paragraph.

3 SECTION 6. 108.04 (16) (b) of the statutes is amended to read:

4 108.04 (16) (b) The requalifying employment requirement under subs. (7) and
5 (8) and the general qualifying requirements under sub. (2) do not apply to an
6 individual as a result of the individual's enrollment in training or leaving unsuitable
7 work to enter or continue training under 19 USC 2296 or a plan approved under 29
8 USC 2822.

Handwritten circled notes: "8-8" with an arrow pointing to the start of Section 7.

9 SECTION 7. 108.05 (7) (a) 1. of the statutes is amended to read:

10 108.05 (7) (a) 1. "Pension payment" means a pension, retirement, annuity or
11 other similar payment made to a claimant, based on the previous work of that
12 claimant, whether or not payable on a periodic basis, from a governmental or other
13 retirement system maintained or contributed to by an employer from which that
14 claimant has base period wages, other than a payment received under the social
15 security act (42 USC 301 et seq.).

16 SECTION 8. 108.05 (7) (f) 1. of the statutes is amended to read:

17 108.05 (7) (f) 1. If the pension payment is received under the ~~social security act~~
18 ~~(42 USC 301 et seq.)~~ or railroad retirement act (45 USC 231 et seq.), the department
19 shall reduce the weekly benefits payable for a week of partial or total unemployment
20 by 50% of the weekly pension amount.

21 SECTION 9. 108.09 (3) (a) of the statutes is renumbered 108.09 (3) (a) 1. and
22 amended to read:

23 108.09 (3) (a) 1. To hear and decide disputed claims, the department shall
24 establish appeal tribunals. Except as authorized in this paragraph, each of which

1 tribunal shall consist of an individual who is a permanent employee of the
2 department.

3 3. Upon request of a party to an appeal or upon its own motion, the department
4 may appoint an individual who is not a permanent employee of the department to
5 hear an appeal in which the department or an employee or former employee of the
6 department is an interested party. No individual may hear any appeal in which the
7 individual is a directly interested party.

8 **SECTION 10.** 108.09 (3) (a) 2. of the statutes is created to read:

9 108.09 (3) (a) 2. The department may appoint an individual who is not a
10 permanent employee of the department to serve as a temporary reserve appeal
11 tribunal if the individual formerly served as an appeal tribunal while employed by
12 the department and retired from state service as a permanent employee. An
13 individual who is appointed to serve as a temporary reserve appeal tribunal shall be
14 an attorney who is licensed to practice in this state. ~~A temporary reserve appeal~~
15 ~~tribunal shall be paid on a per diem basis.~~

16 **SECTION 11.** 108.14 (2e) of the statutes is created to read:

17 108.14 (2e) The department may provide a secure means of electronic
18 interchange between itself and employing units, claimants, and other customers
19 which, upon request of a customer, may be used to submit electronically any
20 document used in the administration of this chapter in lieu of any other means of
21 submission. If a due date is established by statute for the submission of any
22 document that is submitted electronically under this subsection, then that
23 submission is timely only if the document is submitted by midnight of the statutory
24 due date.

25 **SECTION 12.** 108.14 (19) of the statutes is created to read:

1 108.14 (19) On or about February 15 of each year, the department shall prepare
2 and furnish to the council on unemployment insurance a report summarizing its
3 activities related to detection and prosecution of unemployment insurance fraud in
4 the preceding year.

5 **SECTION 13.** 108.16 (8) (b) (intro.) of the statutes is amended to read:

6 108.16 (8) (b) (intro.) If the business of any employer is transferred to a single
7 transferee, the transferee is deemed a successor for purposes of this chapter, if the
8 department determines that all of the following conditions have been satisfied:

9 **SECTION 14.** 108.16 (8) (b) 2. of the statutes is amended to read:

10 108.16 (8) (b) 2. The transfer included ~~at least 25%~~ 100% of the transferor's
11 total business ~~as measured by comparing the payroll experience assignable to the~~
12 ~~portion of the business transferred with the transferor's total payroll experience for~~
13 ~~the last 4 completed quarters immediately preceding on~~ the date of transfer.

14 **SECTION 15.** 108.16 (8) (c) 4. of the statutes is created to read:

15 108.16 (8) (c) 4. The transferor transfers 100% of the transferor's total business
16 on the date of the transfer or the transferor's account was overdrawn on the date of
17 the transfer.

18 **SECTION 16.** 108.16 (8) (e) 4. of the statutes is created to read:

19 108.16 (8) (e) 4. The transferor transfers 100% of the transferor's total business
20 on the date of the transfer or the transferor's account was overdrawn on the date of
21 the transfer.

22 **SECTION 17.** 108.16 (8) (f) of the statutes is amended to read:

23 108.16 (8) (f) The successor shall take over and continue the transferor's
24 account, including its positive or negative balance and all other aspects of its
25 experience under this chapter. If the transfer included less than 100% of the

1 transferor's total assets on the date of the transfer, the department shall allocate the
2 transferor's experience to the transferee in proportion to the payroll assignable to the
3 transferred business. ~~The~~ and the liability of the successor shall be proportioned to
4 the extent of the transferred business. The transferor and the successor shall be
5 jointly and severally liable for any amounts owed by the transferor to the fund and
6 to the administrative account at the time of the transfer, but a successor under par.
7 (c) is not liable for the debts of the transferor except in the case of fraud or
8 malfeasance.

9 **SECTION 18.** 108.17 (2e) of the statutes is created to read:

10 108.17 (2e) An employer agent that files reports under sub. (2) on behalf of 25
11 or more employers shall file those reports using an electronic medium and format
12 approved by the department. An employer agent that becomes subject to the
13 reporting requirement under this subsection shall file its initial reports under this
14 subsection ~~for the 2nd reporting period beginning after the quarter in which the~~
15 employer agent becomes subject to the reporting requirement. Once an employer
16 agent becomes subject to the reporting requirement under this subsection, the
17 employer agent shall continue to file its reports under this subsection unless that
18 requirement is waived by the department.

19 **SECTION 19.** 108.19 (1e) (a) and (d) of the statutes are amended to read:

20 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an
21 employer ~~which~~ that finances benefits under s. 108.15 or 108.151 shall, in addition
22 to other contributions payable under s. 108.18 and this section, pay an assessment
23 to the administrative account for each year prior to the year ~~2002~~ 2004 equal to the
24 lesser of 0.01% of its payroll for that year or the solvency contribution that would
25 otherwise be payable by the employer under s. 108.18 (9) for that year.

1 (d) The department may expend the moneys received from assessments levied
2 under this subsection for the renovation and modernization of the unemployment
3 insurance information technology systems, including the tax and accounting system,
4 and specifically including development and implementation of a new system and
5 reengineering of automated processes and manual business functions.

6 SECTION 20. 108.20 (3) of the statutes is amended to read:

7 108.20 (3) There shall be included in the moneys governed by sub. (2m) any
8 amounts collected by the department under ss. 108.04 (11) (c) and (cm) and 108.22
9 (1) (a) and, (ac), and (ad) as tardy filing fees, forfeitures, interest on delinquent
10 payments or other penalties and any excess moneys collected under s. 108.19 (1m).

11 SECTION 21. ~~108.205 (2) of the statutes is amended to read:~~

12 108.205 (2) ~~All employers~~ An employer of 100 or more employees, as
13 determined under s. 108.22 (1) (ae), shall file the quarterly report under sub. (1)
14 using an electronic medium approved by the department for such employers, unless
15 the employer retains an employer agent that is subject to the reporting requirement
16 under sub. (3).

17 (4) An employer or employer agent that becomes subject to the reporting
18 requirement under this subsection sub. (2) or (3) shall file its initial report under this
19 that subsection for the 4th quarter beginning after the quarter in which the employer
20 or employer agent becomes subject to the reporting requirement. Once an employer
21 or employer agent becomes subject to the a reporting requirement under this
22 subsection sub. (2) or (3), the employer or employer agent shall continue to file its
23 quarterly reports under this subsection sub. (2) or (3) unless that requirement is
24 waived by the department.

25 SECTION 22. ~~108.205 (3) of the statutes is created to read:~~

1 108.205 (3) An employer agent that files reports under sub. (1) on behalf of 25
2 or more employers shall file those reports using an electronic medium and format
3 approved by the department.

4 **SECTION 23.** 108.22 (1) (ad) of the statutes is created to read:

5 108.22 (1) (ad) An employer agent that is subject to the reporting requirements
6 under ss. 108.17 (2e) and 108.205 (3) and that fails to file a contribution report in
7 accordance with s. 108.17 (2e) or a wage report in accordance with s. 108.205 (3) may
8 be assessed a penalty by the department in the amount of \$25 for each employer
9 whose report is not filed using an electronic format and medium approved by the
10 department.

11 **SECTION 24.** 108.22 (1) (am) of the statutes is amended to read:

12 108.22 (1) (am) The interest, penalties, and the tardy filing fees levied under
13 par. (a), (ac), and (ad) shall be paid to the department and credited to the
14 administrative account.

15 **SECTION 25.** 108.22 (1m) of the statutes is amended to read:

16 108.22 (1m) If an employer owes any contributions, reimbursements under s.
17 108.15 or 18.151, interest ~~or~~ fees, or payments for forfeitures or other penalties to
18 the department under this chapter and fails to pay the amount owed, the department
19 has a perfected lien upon the employer's right, title and interest in all of its real and
20 personal property located in this state in the amount finally determined to be owed,
21 plus costs. Except where creation of a lien is barred or stayed by bankruptcy or other
22 insolvency law, the lien is effective when the department issues a determination of
23 the amount owed under s. 108.10 (1) and shall continue until the amount owed, plus
24 costs and interest to the date of payment, is paid. If a lien is initially barred or stayed
25 by bankruptcy or other insolvency law, it shall become effective immediately upon

1 expiration or removal of such bar or stay. The perfected lien does not give the
2 department priority over lienholders, mortgagees, purchasers for value, judgment
3 creditors and pledges whose interests have been recorded before the department's
4 lien is recorded.

5 SECTION 26. 108.225 (1) (a) to (c) of the statutes are amended to read:

6 108.225 (1) (a) ~~"Contributions" include~~ "Contribution" includes a
7 reimbursement under s. 108.15 or 108.151, interest for a nontimely payment, fees,
8 and any penalties payment due for a forfeiture or other penalty assessed by the
9 department under this chapter.

10 (b) "Debt" means a delinquent contribution or repayment of a benefit
11 overpayment, or any liability of a 3rd party for failure to surrender to the department
12 property or rights to property subject to levy after proceedings under sub. (4) (b) and
13 s. 108.10 to determine that liability.

14 (c) "Debtor" means a person who owes the department delinquent contributions
15 or a benefit overpayment a debt.

16 SECTION 27. 108.225 (16) (intro.) of the statutes is amended to read:

17 108.225 (16) WAGES EXEMPT FROM LEVY. (intro.) In the case of benefit
18 overpayments, the and forfeitures imposed upon an employing unit under s. 108.04
19 (11) (c), an individual debtor is entitled to an exemption from levy of the greater of
20 the following:

20
21
14-21
22

SECTION 28. Nonstatutory provisions.

(1) OFFSET OF SOCIAL SECURITY BENEFITS.

23 (a) In this section:

24 1. "Base period wages" has the meaning given in section 108.02 (4m) of the
25 statutes.

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

2 (b) Notwithstanding section 108.04 (7), 1999 stats., for each week of
3 unemployment beginning in 2002, if a claimant receives a payment under the social
4 security act (42 USC 301 et seq.) that is contributed to by an employer from which
5 the claimant has base period wages, the reduction that applies to the benefits
6 payable to the claimant for that week is 50% of the amount that would otherwise
7 apply for that week under section 108.04 (7), 1999 stats.

8 (2) RULE MAKING.

9 (a) The department of workforce development shall submit in proposed form
10 rule changes to the legislative council staff under section 227.15 (1) of the statutes
11 no later than the first day of the 11th month beginning after the effective date of this
12 paragraph:

13 1. To amend Wis. Adm. Code section DWD 100.02 (28) for the purpose of
14 decreasing the number of hours per week for work to be considered full time to 32.

15 2. To establish a specified level of repeated absenteeism or repeated tardiness
16 that constitutes misconduct for purposes of section 108.04 (5) of the statutes.

17 3. To specify, in accordance with applicable administrative and judicial
18 interpretations, what constitutes an "establishment" for purposes of the
19 disqualification from receipt of unemployment insurance benefits because of a labor
20 dispute in an establishment in which an employee is or was employed under section
21 108.04 (10) of the statutes.

22 (b) The department of workforce development shall promulgate an emergency
23 rule under section 227.24 of the statutes to amend Wis. Adm. Code section DWD
24 129.01 (1) for the purpose of extending the deadline for filing an initial claim for
25 unemployment insurance benefits by 7 days. Notwithstanding section 227.24 (1) (c)

1 and (2) of the statutes, the emergency rule may remain in effect until the first day
2 of the 11th month beginning after the effective date of this paragraph or until the
3 date on which a permanent rule relating to the same subject matter takes effect,
4 whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes,
5 the department is not required to provide evidence that promulgating a rule under
6 this paragraph as an emergency rule is necessary for the preservation of the public
7 peace, health, safety, or welfare and is not required to provide a finding of emergency
8 for a rule promulgated under this paragraph.

9 (3) POSITION AUTHORIZATIONS. The authorized FTE positions for the department
10 of workforce development are increased by 15.0 FED positions for the period ending
11 on June 30, 2004, to be funded from the appropriation under section 20.445 (1) (n)
12 of the statutes, for the purpose of assisting with unemployment insurance
13 information technology projects.

14 **SECTION 29. Appropriation changes.**

15 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
16 to the department of workforce development under section 20.445 (1) (gf) of the
17 statutes, as affected by the acts of 2001, the dollar amount is increased by \$250,000
18 for fiscal year 2001-02 to pay employment service costs for which federal aid was
19 disallowed.

20 (2) In the schedule under section 20.005 (3) of the statutes for the appropriation
21 to the department of workforce development under section 20.445 (1) (nb) of the
22 statutes, as affected by the acts of 2001, the dollar amount is increased by \$-0- for
23 fiscal year 2001-02.

24 **SECTION 30. Initial applicability.**

1 (1) The treatment of section 108.02 (15) (j) 4., 5., and 6. of the statutes first
2 applies to services performed after December 31, 2000.

3 (2) The treatment of section 108.04 (7) (h) and (8) (c) of the statutes first applies
4 with respect to determinations issued under section 108.09 or 108.10 of the statutes
5 on December 30, 2001.

6 (3) The treatment of section 108.04 (16) (b) of the statutes first applies with
7 respect to weeks of unemployment or voluntary terminations occurring on January
8 7, 2001.

9 (4) The treatment of section 108.05 (7) (a) 1. and (f) 1. of the statutes first
10 applies to weeks of unemployment beginning on January 5, 2003.

11 (5) The treatment of sections 108.17 (2e), 108.20 (3), 108.205 (2) and (3), and
12 108.22 (1) (ad) and (am) of the statutes first applies with respect to reports due for
13 the reporting period or calendar quarter that includes March 31, 2003.

14 (6) The treatment of section 108.16 (8) (b) (intro.) and 2., (c) (intro.) and 4. and
15 (f) first applies to transfers of businesses occurring after December 31, 2001, and to
16 transfers of businesses of which the department of workforce development receives
17 notice after January 31, 2002.

18 (7) The treatment of section 108.22 (1m) of the statutes first applies with
19 respect to liabilities that accrue on the effective date of this subsection.

20 (8) The treatment of section 108.225 (1) (a) to (c) and (16) (intro.) of the statutes
21 first applies with respect to determinations issued under section 108.10 of the
22 statutes on the effective date of this subsection.

23 **SECTION 31. Effective date.**

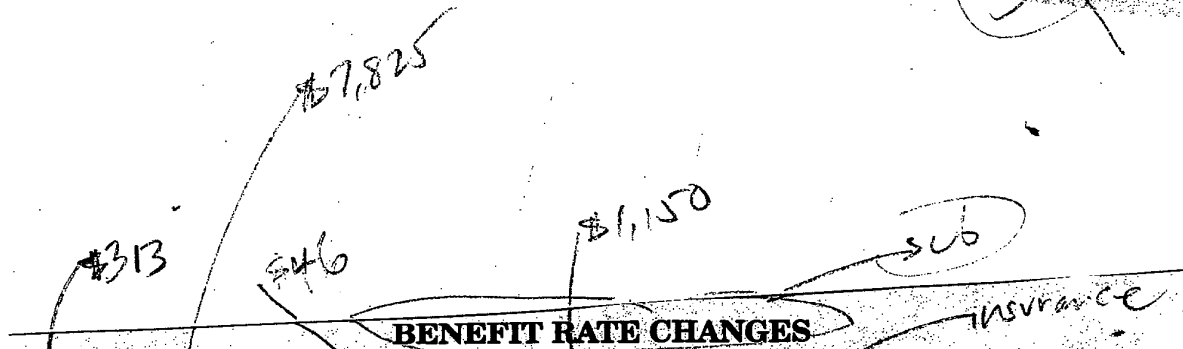
24 (1) This act takes effect on the first Sunday after publication.

25

(END)

RNS 1A

1981
LRB-9247/3
JTK:wj:kjf



BENEFIT RATE CHANGES

Currently, weekly unemployment, ~~compensation~~ benefit rates for total unemployment range from \$44 for an employee who earns wages (or certain other amounts treated as wages) of at least \$1,400 during at least one quarter of the employee's base period (period preceding a claim during which benefit rights accrue) to \$297 for an employee 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 \$46 for an employee who earns wages (or certain other amounts treated as wages) of at least \$1,125 during at least one quarter of the employee's base period to \$305 for an employee 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 employee who earns wages (or certain other amounts treated as wages) of at least \$1,150 during at least one quarter of the employee's base period to \$313 for an employee who earns wages (or certain other amounts treated as wages) of at least \$7,825 during any such quarter.

December 29, 2002

December 31, 2001

December 29, 2002

\$48

\$324

\$1,200

\$8,100

\$49

\$1,225

\$329

\$8,225

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3682/p3ins2
JTK.....

INS 4A:

Currently, the rates of pay for limited term state employes are fixed under the state compensation plan. This bill provides that the compensation plan must include a provision specifying that if an individual receives a limited term appointment as a temporary reserve appeal tribunal, DWD may compensate the individual at a rate not more than the base pay rate that the individual was paid at the time of his or her separation from DWD, plus any intervening adjustment made since that separation.

INS 8-8

1 Document is in 01-3682 folder: **UmpCrtCH**

***** **INSERT 108.05 (1) (L), (M) and (N)** *****

2 **SECTION 1.** 108.05 (1) (L) (intro.) of the statutes is amended to read:

3 108.05 (1) (L) (intro.) Each eligible employee shall be paid benefits for each
4 week of total unemployment that commences on or after October 1, 2000, and before
5 December 30, 2001, at the weekly benefit rate specified in this paragraph. Unless
6 sub. (1m) applies, the weekly benefit rate shall equal 4% of the employee's base
7 period wages that were paid during that quarter of the employee's base period in
8 which the employee was paid the highest total wages, rounded down to the nearest
9 whole dollar, except that if that amount is less than the minimum amount shown in
10 the following schedule, no benefits are payable to the employee and if that amount
11 is more than the maximum amount shown in the following schedule, the employee's
12 weekly benefit rate shall be the maximum amount shown in the following schedule
13 and except that if the employee's benefits are exhausted during any week under s.
14 108.06 (1), the employee shall be paid the remaining amount of benefits payable to
15 the employee in lieu of the amount shown in the following schedule: [See Figure
16 108.05 (1) (L) following]

17 **SECTION 2.** 108.05 (1) (m) and (n) of the statutes are created to read:

18 108.05 (1) (m) Each eligible employee shall be paid benefits for each week of total
19 unemployment which commences on or after December 30, 2001, and before
20 December 29, 2002, at the weekly benefit rate specified in this paragraph. Unless
21 sub. (1m) applies, the weekly benefit rate shall equal 4% of the employee's base period
22 wages which were paid during that quarter of the employee's base period in which the

1 employe was paid the highest total wages, rounded down to the nearest whole dollar,
 2 except that if that amount is less than the minimum amount shown in the following
 3 schedule, no benefits are payable to the employe and if that amount is more than the
 4 maximum amount shown in the following schedule, the employe's weekly benefit
 5 rate shall be the maximum amount shown in the following schedule and except that
 6 if the employe's benefits are exhausted during any week under s. 108.06 (1), the
 7 employe shall be paid the remaining amount of benefits payable to the employe in
 8 lieu of the amount shown in the following schedule: [See Figure 108.05 (1) (m)
 9 following]

10
 11 **Figure 108.05 (1) (m):**

Line	Highest Quarterly Wages Paid	Weekly Benefit Rate
1.	Under \$1,200.00	\$ 0
2.	1,200.00 to 1,224.99	48
3.	1,225.00 to 1,249.99	49
4.	1,250.00 to 1,274.99	50
5.	1,275.00 to 1,299.99	51
6.	1,300.00 to 1,324.99	52
7.	1,325.00 to 1,349.99	53
8.	1,350.00 to 1,374.99	54
9.	1,375.00 to 1,399.99	55
10.	1,400.00 to 1,424.99	56

1	11.	1,425.00	to	1,449.99	57
2	12.	1,450.00	to	1,474.99	58
3	13.	1,475.00	to	1,499.99	59
4	14.	1,500.00	to	1,524.99	60
5	15.	1,525.00	to	1,549.99	61
6	16.	1,550.00	to	1,574.99	62
7	17.	1,575.00	to	1,599.99	63
8	18.	1,600.00	to	1,624.99	64
9	19.	1,625.00	to	1,649.99	65
10	20.	1,650.00	to	1,674.99	66
11	21.	1,675.00	to	1,699.99	67
12	22.	1,700.00	to	1,724.99	68
13	23.	1,725.00	to	1,749.99	69
14	24.	1,750.00	to	1,774.99	70
15	25.	1,775.00	to	1,799.99	71
16	26.	1,800.00	to	1,824.99	72
17	27.	1,825.00	to	1,849.99	73
18	28.	1,850.00	to	1,874.99	74
19	29.	1,875.00	to	1,899.99	75
20	30.	1,900.00	to	1,924.99	76
21	31.	1,925.00	to	1,949.99	77
22	32.	1,950.00	to	1,974.99	78
23	33.	1,975.00	to	1,999.99	79
24	34.	2,000.00	to	2,024.99	80

1	35.	2,025.00	to	2,049.99	.....	81
2	36.	2,050.00	to	2,074.99	.....	82
3	37.	2,075.00	to	2,099.99	.....	83
4	38.	2,100.00	to	2,124.99	.....	84
5	39.	2,125.00	to	2,149.99	.....	85
6	40.	2,150.00	to	2,174.99	.....	86
7	41.	2,175.00	to	2,199.99	.....	87
8	42.	2,200.00	to	2,224.99	.....	88
9	43.	2,225.00	to	2,249.99	.....	89
10	44.	2,250.00	to	2,274.99	.....	90
11	45.	2,275.00	to	2,299.99	.....	91
12	46.	2,300.00	to	2,324.99	.....	92
13	47.	2,325.00	to	2,349.99	.....	93
14	48.	2,350.00	to	2,374.99	.....	94
15	49.	2,375.00	to	2,399.99	.....	95
16	50.	2,400.00	to	2,424.99	.....	96
17	51.	2,425.00	to	2,449.99	.....	97
18	52.	2,450.00	to	2,474.99	.....	98
19	53.	2,475.00	to	2,499.99	.....	99
20	54.	2,500.00	to	2,524.99	.....	100
21	55.	2,525.00	to	2,549.99	.....	101
22	56.	2,550.00	to	2,574.99	.....	102
23	57.	2,575.00	to	2,599.99	.....	103
24	58.	2,600.00	to	2,624.99	.....	104

1	59.	2,625.00	to	2,649.99	.....	105
2	60.	2,650.00	to	2,674.99	.....	106
3	61.	2,675.00	to	2,699.99	.....	107
4	62.	2,700.00	to	2,724.99	.....	108
5	63.	2,725.00	to	2,749.99	.....	109
6	64.	2,750.00	to	2,774.99	.....	110
7	65.	2,775.00	to	2,799.99	.....	111
8	66.	2,800.00	to	2,824.99	.....	112
9	67.	2,825.00	to	2,849.99	.....	113
10	68.	2,850.00	to	2,874.99	.....	114
11	69.	2,875.00	to	2,899.99	.....	115
12	70.	2,900.00	to	2,924.99	.....	116
13	71.	2,925.00	to	2,949.99	.....	117
14	72.	2,950.00	to	2,974.99	.....	118
15	73.	2,975.00	to	2,999.99	.....	119
16	74.	3,000.00	to	3,024.99	.....	120
17	75.	3,025.00	to	3,049.99	.....	121
18	76.	3,050.00	to	3,074.99	.....	122
19	77.	3,075.00	to	3,099.99	.....	123
20	78.	3,100.00	to	3,124.99	.....	124
21	79.	3,125.00	to	3,149.99	.....	125
22	80.	3,150.00	to	3,174.99	.....	126
23	81.	3,175.00	to	3,199.99	.....	127
24	82.	3,200.00	to	3,224.99	.....	128

1	83.	3,225.00	to	3,249.99	129
2	84.	3,250.00	to	3,274.99	130
3	85.	3,275.00	to	3,299.99	131
4	86.	3,300.00	to	3,324.99	132
5	87.	3,325.00	to	3,349.99	133
6	88.	3,350.00	to	3,374.99	134
7	89.	3,375.00	to	3,399.99	135
8	90.	3,400.00	to	3,424.99	136
9	91.	3,425.00	to	3,449.99	137
10	92.	3,450.00	to	3,474.99	138
11	93.	3,475.00	to	3,499.99	139
12	94.	3,500.00	to	3,524.99	140
13	95.	3,525.00	to	3,549.99	141
14	96.	3,550.00	to	3,574.99	142
15	97.	3,575.00	to	3,599.99	143
16	98.	3,600.00	to	3,624.99	144
17	99.	3,625.00	to	3,649.99	145
18	100.	3,650.00	to	3,674.99	146
19	101.	3,675.00	to	3,699.99	147
20	102.	3,700.00	to	3,724.99	148
21	103.	3,725.00	to	3,749.99	149
22	104.	3,750.00	to	3,774.99	150
23	105.	3,775.00	to	3,799.99	151
24	106.	3,800.00	to	3,824.99	152

1	107.	3,825.00	to	3,849.99	153
2	108.	3,850.00	to	3,874.99	154
3	109.	3,875.00	to	3,899.99	155
4	110.	3,900.00	to	3,924.99	156
5	111.	3,925.00	to	3,949.99	157
6	112.	3,950.00	to	3,974.99	158
7	113.	3,975.00	to	3,999.99	159
8	114.	4,000.00	to	4,024.99	160
9	115.	4,025.00	to	4,049.99	161
10	116.	4,050.00	to	4,074.99	162
11	117.	4,075.00	to	4,099.99	163
12	118.	4,100.00	to	4,124.99	164
13	119.	4,125.00	to	4,149.99	165
14	120.	4,150.00	to	4,174.99	166
15	121.	4,175.00	to	4,199.99	167
16	122.	4,200.00	to	4,224.99	168
17	123.	4,225.00	to	4,249.99	169
18	124.	4,250.00	to	4,274.99	170
19	125.	4,275.00	to	4,299.99	171
20	126.	4,300.00	to	4,324.99	172
21	127.	4,325.00	to	4,349.99	173
22	128.	4,350.00	to	4,374.99	174
23	129.	4,375.00	to	4,399.99	175
24	130.	4,400.00	to	4,424.99	176

1	131.	4,425.00	to	4,449.99	177
2	132.	4,450.00	to	4,474.99	178
3	133.	4,475.00	to	4,499.99	179
4	134.	4,500.00	to	4,524.99	180
5	135.	4,525.00	to	4,549.99	181
6	136.	4,550.00	to	4,574.99	182
7	137.	4,575.00	to	4,599.99	183
8	138.	4,600.00	to	4,624.99	184
9	139.	4,625.00	to	4,649.99	185
10	140.	4,650.00	to	4,674.99	186
11	141.	4,675.00	to	4,699.99	187
12	142.	4,700.00	to	4,724.99	188
13	143.	4,725.00	to	4,749.99	189
14	144.	4,750.00	to	4,774.99	190
15	145.	4,775.00	to	4,799.99	191
16	146.	4,800.00	to	4,824.99	192
17	147.	4,825.00	to	4,849.99	193
18	148.	4,850.00	to	4,874.99	194
19	149.	4,875.00	to	4,899.99	195
20	150.	4,900.00	to	4,924.99	196
21	151.	4,925.00	to	4,949.99	197
22	152.	4,950.00	to	4,974.99	198
23	153.	4,975.00	to	4,999.99	199
24	154.	5,000.00	to	5,024.99	200

1	155.	5,025.00	to	5,049.99	.....	201
2	156.	5,050.00	to	5,074.99	.....	202
3	157.	5,075.00	to	5,099.99	.....	203
4	158.	5,100.00	to	5,124.99	.....	204
5	159.	5,125.00	to	5,149.99	.....	205
6	160.	5,150.00	to	5,174.99	.....	206
7	161.	5,175.00	to	5,199.99	.....	207
8	162.	5,200.00	to	5,224.99	.....	208
9	163.	5,225.00	to	5,249.99	.....	209
10	164.	5,250.00	to	5,274.99	.....	210
11	165.	5,275.00	to	5,299.99	.....	211
12	166.	5,300.00	to	5,324.99	.....	212
13	167.	5,325.00	to	5,349.99	.....	213
14	168.	5,350.00	to	5,374.99	.....	214
15	169.	5,375.00	to	5,399.99	.....	215
16	170.	5,400.00	to	5,424.99	.....	216
17	171.	5,425.00	to	5,449.99	.....	217
18	172.	5,450.00	to	5,474.99	.....	218
19	173.	5,475.00	to	5,499.99	.....	219
20	174.	5,500.00	to	5,524.99	.....	220
21	175.	5,525.00	to	5,549.99	.....	221
22	176.	5,550.00	to	5,574.99	.....	222
23	177.	5,575.00	to	5,599.99	.....	223
24	178.	5,600.00	to	5,624.99	.....	224

1	179.	5,625.00	to	5,649.99	225
2	180.	5,650.00	to	5,674.99	226
3	181.	5,675.00	to	5,699.99	227
4	182.	5,700.00	to	5,724.99	228
5	183.	5,725.00	to	5,749.99	229
6	184.	5,750.00	to	5,774.99	230
7	185.	5,775.00	to	5,799.99	231
8	186.	5,800.00	to	5,824.99	232
9	187.	5,825.00	to	5,849.99	233
10	188.	5,850.00	to	5,874.99	234
11	189.	5,875.00	to	5,899.99	235
12	190.	5,900.00	to	5,924.99	236
13	191.	5,925.00	to	5,949.99	237
14	192.	5,950.00	to	5,974.99	238
15	193.	5,975.00	to	5,999.99	239
16	194.	6,000.00	to	6,024.99	240
17	195.	6,025.00	to	6,049.99	241
18	196.	6,050.00	to	6,074.99	242
19	197.	6,075.00	to	6,099.99	243
20	198.	6,100.00	to	6,124.99	244
21	199.	6,125.00	to	6,149.99	245
22	200.	6,150.00	to	6,174.99	246
23	201.	6,175.00	to	6,199.99	247
24	202.	6,200.00	to	6,224.99	248

1	203.	6,225.00	to	6,249.99	249
2	204.	6,250.00	to	6,274.99	250
3	205.	6,275.00	to	6,299.99	251
4	206.	6,300.00	to	6,324.99	252
5	207.	6,325.00	to	6,349.99	253
6	208.	6,350.00	to	6,374.99	254
7	209.	6,375.00	to	6,399.99	255
8	210.	6,400.00	to	6,424.99	256
9	211.	6,425.00	to	6,449.99	257
10	212.	6,450.00	to	6,474.99	258
11	213.	6,475.00	to	6,499.99	259
12	214.	6,500.00	to	6,524.99	260
13	215.	6,525.00	to	6,549.99	261
14	216.	6,550.00	to	6,574.99	262
15	217.	6,575.00	to	6,599.99	263
16	218.	6,600.00	to	6,624.99	264
17	219.	6,625.00	to	6,649.99	265
18	220.	6,650.00	to	6,674.99	266
19	221.	6,675.00	to	6,699.99	267
20	222.	6,700.00	to	6,724.99	268
21	223.	6,725.00	to	6,749.99	269
22	224.	6,750.00	to	6,774.99	270
23	225.	6,775.00	to	6,799.99	271
24	226.	6,800.00	to	6,824.99	272

1	227.	6,825.00	to	6,849.99	273
2	228.	6,850.00	to	6,874.99	274
3	229.	6,875.00	to	6,899.99	275
4	230.	6,900.00	to	6,924.99	276
5	231.	6,925.00	to	6,949.99	277
6	232.	6,950.00	to	6,974.99	278
7	233.	6,975.00	to	6,999.99	279
8	234.	7,000.00	to	7,024.99	280
9	235.	7,025.00	to	7,049.99	281
10	236.	7,050.00	to	7,074.99	282
11	237.	7,075.00	to	7,099.99	283
12	238.	7,100.00	to	7,124.99	284
13	239.	7,125.00	to	7,149.99	285
14	240.	7,150.00	to	7,174.99	286
15	241.	7,175.00	to	7,199.99	287
16	242.	7,200.00	to	7,224.99	288
17	243.	7,225.00	to	7,249.99	289
18	244.	7,250.00	to	7,274.99	290
19	245.	7,275.00	to	7,299.99	291
20	246.	7,300.00	to	7,324.99	292
21	247.	7,325.00	to	7,349.99	293
22	248.	7,350.00	to	7,374.99	294
23	249.	7,375.00	to	7,399.99	295
24	250.	7,400.00	to	7,424.99	296

1	251.	7,425.00	to	7,449.99	.....	297
2	252.	7,450.00	to	7,474.99	.....	298
3	253.	7,475.00	to	7,499.99	.....	299
4	254.	7,500.00	to	7,524.99	.....	300
5	255.	7,525.00	to	7,549.99	.....	301
6	256.	7,550.00	to	7,574.99	.....	302
7	257.	7,575.00	to	7,599.99	.....	303
8	258.	7,600.00	to	7,624.99	.....	304
9	259.	7,625.00	to	7,649.99	.....	305
10	260.	7,650.00	to	7,674.99	.....	306
11	261.	7,675.00	to	7,699.99	.....	307
12	262.	7,700.00	to	7,724.99	.....	308
13	263.	7,725.00	to	7,749.99	.....	309
14	264.	7,750.00	to	7,774.99	.....	310
15	265.	7,775.00	to	7,799.99	.....	311
16	266.	7,800.00	to	7,824.99	.....	312
17	267.	7,825.00	to	7,849.99	.....	313
18	268.	7,850.00	to	7,874.99	.....	314
19	269.	7,875.00	to	7,899.99	.....	315
20	270.	7,900.00	to	7,924.99	.....	316
21	271.	7,925.00	to	7,949.99	.....	317
22	272.	7,950.00	to	7,974.99	.....	318
23	273.	7,975.00	to	7,999.99	.....	319
24	274.	8,000.00	to	8,024.99	.....	320

1	275.	8,025.00	to	8,049.99	.....	321
2	276.	8,050.00	to	8,074.99	.....	322
3	277.	8,075.00	to	8,099.99	.....	323
4	278.	8,100.00		and over	.....	324

5
6 (n) Each eligible employee shall be paid benefits for each week of total
7 unemployment which commences on or after December 29, 2002, at the weekly
8 benefit rate specified in this paragraph. Unless sub. (1m) applies, the weekly benefit
9 rate shall equal 4% of the employee's base period wages which were paid during that
10 quarter of the employee's base period in which the employee was paid the highest total
11 wages, rounded down to the nearest whole dollar, except that if that amount is less
12 than the minimum amount shown in the following schedule, no benefits are payable
13 to the employee and if that amount is more than the maximum amount shown in the
14 following schedule, the employee's weekly benefit rate shall be the maximum amount
15 shown in the following schedule and except that if the employee's benefits are
16 exhausted during any week under s. 108.06 (1), the employee shall be paid the

*I gave this
space alone -
it will correct
itself in the
bill*

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

3
4 **Figure 108.05 (1) (n):**

5	6	7	8	9
Line	Highest Quarterly Wages Paid			Weekly Benefit Rate
10	1.	Under	\$1,225.00	\$ 0
11	2.	1,225.00 to	1,249.99	49
12	3.	1,250.00 to	1,274.99	50
13	4.	1,275.00 to	1,299.99	51
14	5.	1,300.00 to	1,324.99	52
15	6.	1,325.00 to	1,349.99	53
16	7.	1,350.00 to	1,374.99	54
17	8.	1,375.00 to	1,399.99	55
18	9.	1,400.00 to	1,424.99	56
19	10.	1,425.00 to	1,449.99	57
20	11.	1,450.00 to	1,474.99	58
21	12.	1,475.00 to	1,499.99	59
22	13.	1,500.00 to	1,524.99	60
23	14.	1,525.00 to	1,549.99	61
24	15.	1,550.00 to	1,574.99	62
25	16.	1,575.00 to	1,599.99	63
26	17.	1,600.00 to	1,624.99	64

1	18.	1,625.00	to	1,649.99	.....	65
2	19.	1,650.00	to	1,674.99	.....	66
3	20.	1,675.00	to	1,699.99	.....	67
4	21.	1,700.00	to	1,724.99	.....	68
5	22.	1,725.00	to	1,749.99	.....	69
6	23.	1,750.00	to	1,774.99	.....	70
7	24.	1,775.00	to	1,799.99	.....	71
8	25.	1,800.00	to	1,824.99	.....	72
9	26.	1,825.00	to	1,849.99	.....	73
10	27.	1,850.00	to	1,874.99	.....	74
11	28.	1,875.00	to	1,899.99	.....	75
12	29.	1,900.00	to	1,924.99	.....	76
13	30.	1,925.00	to	1,949.99	.....	77
14	31.	1,950.00	to	1,974.99	.....	78
15	32.	1,975.00	to	1,999.99	.....	79
16	33.	2,000.00	to	2,024.99	.....	80
17	34.	2,025.00	to	2,049.99	.....	81
18	35.	2,050.00	to	2,074.99	.....	82
19	36.	2,075.00	to	2,099.99	.....	83
20	37.	2,100.00	to	2,124.99	.....	84
21	38.	2,125.00	to	2,149.99	.....	85
22	39.	2,150.00	to	2,174.99	.....	86
23	40.	2,175.00	to	2,199.99	.....	87
24	41.	2,200.00	to	2,224.99	.....	88

1	42.	2,225.00	to	2,249.99	89
2	43.	2,250.00	to	2,274.99	90
3	44.	2,275.00	to	2,299.99	91
4	45.	2,300.00	to	2,324.99	92
5	46.	2,325.00	to	2,349.99	93
6	47.	2,350.00	to	2,374.99	94
7	48.	2,375.00	to	2,399.99	95
8	49.	2,400.00	to	2,424.99	96
9	50.	2,425.00	to	2,449.99	97
10	51.	2,450.00	to	2,474.99	98
11	52.	2,475.00	to	2,499.99	99
12	53.	2,500.00	to	2,524.99	100
13	54.	2,525.00	to	2,549.99	101
14	55.	2,550.00	to	2,574.99	102
15	56.	2,575.00	to	2,599.99	103
16	57.	2,600.00	to	2,624.99	104
17	58.	2,625.00	to	2,649.99	105
18	59.	2,650.00	to	2,674.99	106
19	60.	2,675.00	to	2,699.99	107
20	61.	2,700.00	to	2,724.99	108
21	62.	2,725.00	to	2,749.99	109
22	63.	2,750.00	to	2,774.99	110
23	64.	2,775.00	to	2,799.99	111
24	65.	2,800.00	to	2,824.99	112

1	66.	2,825.00	to	2,849.99	113
2	67.	2,850.00	to	2,874.99	114
3	68.	2,875.00	to	2,899.99	115
4	69.	2,900.00	to	2,924.99	116
5	70.	2,925.00	to	2,949.99	117
6	71.	2,950.00	to	2,974.99	118
7	72.	2,975.00	to	2,999.99	119
8	73.	3,000.00	to	3,024.99	120
9	74.	3,025.00	to	3,049.99	121
10	75.	3,050.00	to	3,074.99	122
11	76.	3,075.00	to	3,099.99	123
12	77.	3,100.00	to	3,124.99	124
13	78.	3,125.00	to	3,149.99	125
14	79.	3,150.00	to	3,174.99	126
15	80.	3,175.00	to	3,199.99	127
16	81.	3,200.00	to	3,224.99	128
17	82.	3,225.00	to	3,249.99	129
18	83.	3,250.00	to	3,274.99	130
19	84.	3,275.00	to	3,299.99	131
20	85.	3,300.00	to	3,324.99	132
21	86.	3,325.00	to	3,349.99	133
22	87.	3,350.00	to	3,374.99	134
23	88.	3,375.00	to	3,399.99	135
24	89.	3,400.00	to	3,424.99	136

1	90.	3,425.00	to	3,449.99	.....	137
2	91.	3,450.00	to	3,474.99	.....	138
3	92.	3,475.00	to	3,499.99	.....	139
4	93.	3,500.00	to	3,524.99	.....	140
5	94.	3,525.00	to	3,549.99	.....	141
6	95.	3,550.00	to	3,574.99	.....	142
7	96.	3,575.00	to	3,599.99	.....	143
8	97.	3,600.00	to	3,624.99	.....	144
9	98.	3,625.00	to	3,649.99	.....	145
10	99.	3,650.00	to	3,674.99	.....	146
11	100.	3,675.00	to	3,699.99	.....	147
12	101.	3,700.00	to	3,724.99	.....	148
13	102.	3,725.00	to	3,749.99	.....	149
14	103.	3,750.00	to	3,774.99	.....	150
15	104.	3,775.00	to	3,799.99	.....	151
16	105.	3,800.00	to	3,824.99	.....	152
17	106.	3,825.00	to	3,849.99	.....	153
18	107.	3,850.00	to	3,874.99	.....	154
19	108.	3,875.00	to	3,899.99	.....	155
20	109.	3,900.00	to	3,924.99	.....	156
21	110.	3,925.00	to	3,949.99	.....	157
22	111.	3,950.00	to	3,974.99	.....	158
23	112.	3,975.00	to	3,999.99	.....	159
24	113.	4,000.00	to	4,024.99	.....	160

1	114.	4,025.00	to	4,049.99	161
2	115.	4,050.00	to	4,074.99	162
3	116.	4,075.00	to	4,099.99	163
4	117.	4,100.00	to	4,124.99	164
5	118.	4,125.00	to	4,149.99	165
6	119.	4,150.00	to	4,174.99	166
7	120.	4,175.00	to	4,199.99	167
8	121.	4,200.00	to	4,224.99	168
9	122.	4,225.00	to	4,249.99	169
10	123.	4,250.00	to	4,274.99	170
11	124.	4,275.00	to	4,299.99	171
12	125.	4,300.00	to	4,324.99	172
13	126.	4,325.00	to	4,349.99	173
14	127.	4,350.00	to	4,374.99	174
15	128.	4,375.00	to	4,399.99	175
16	129.	4,400.00	to	4,424.99	176
17	130.	4,425.00	to	4,449.99	177
18	131.	4,450.00	to	4,474.99	178
19	132.	4,475.00	to	4,499.99	179
20	133.	4,500.00	to	4,524.99	180
21	134.	4,525.00	to	4,549.99	181
22	135.	4,550.00	to	4,574.99	182
23	136.	4,575.00	to	4,599.99	183
24	137.	4,600.00	to	4,624.99	184

1	138.	4,625.00	to	4,649.99	185
2	139.	4,650.00	to	4,674.99	186
3	140.	4,675.00	to	4,699.99	187
4	141.	4,700.00	to	4,724.99	188
5	142.	4,725.00	to	4,749.99	189
6	143.	4,750.00	to	4,774.99	190
7	144.	4,775.00	to	4,799.99	191
8	145.	4,800.00	to	4,824.99	192
9	146.	4,825.00	to	4,849.99	193
10	147.	4,850.00	to	4,874.99	194
11	148.	4,875.00	to	4,899.99	195
12	149.	4,900.00	to	4,924.99	196
13	150.	4,925.00	to	4,949.99	197
14	151.	4,950.00	to	4,974.99	198
15	152.	4,975.00	to	4,999.99	199
16	153.	5,000.00	to	5,024.99	200
17	154.	5,025.00	to	5,049.99	201
18	155.	5,050.00	to	5,074.99	202
19	156.	5,075.00	to	5,099.99	203
20	157.	5,100.00	to	5,124.99	204
21	158.	5,125.00	to	5,149.99	205
22	159.	5,150.00	to	5,174.99	206
23	160.	5,175.00	to	5,199.99	207
24	161.	5,200.00	to	5,224.99	208

1	162.	5,225.00	to	5,249.99	209
2	163.	5,250.00	to	5,274.99	210
3	164.	5,275.00	to	5,299.99	211
4	165.	5,300.00	to	5,324.99	212
5	166.	5,325.00	to	5,349.99	213
6	167.	5,350.00	to	5,374.99	214
7	168.	5,375.00	to	5,399.99	215
8	169.	5,400.00	to	5,424.99	216
9	170.	5,425.00	to	5,449.99	217
10	171.	5,450.00	to	5,474.99	218
11	172.	5,475.00	to	5,499.99	219
12	173.	5,500.00	to	5,524.99	220
13	174.	5,525.00	to	5,549.99	221
14	175.	5,550.00	to	5,574.99	222
15	176.	5,575.00	to	5,599.99	223
16	177.	5,600.00	to	5,624.99	224
17	178.	5,625.00	to	5,649.99	225
18	179.	5,650.00	to	5,674.99	226
19	180.	5,675.00	to	5,699.99	227
20	181.	5,700.00	to	5,724.99	228
21	182.	5,725.00	to	5,749.99	229
22	183.	5,750.00	to	5,774.99	230
23	184.	5,775.00	to	5,799.99	231
24	185.	5,800.00	to	5,824.99	232

1	186.	5,825.00	to	5,849.99	233
2	187.	5,850.00	to	5,874.99	234
3	188.	5,875.00	to	5,899.99	235
4	189.	5,900.00	to	5,924.99	236
5	190.	5,925.00	to	5,949.99	237
6	191.	5,950.00	to	5,974.99	238
7	192.	5,975.00	to	5,999.99	239
8	193.	6,000.00	to	6,024.99	240
9	194.	6,025.00	to	6,049.99	241
10	195.	6,050.00	to	6,074.99	242
11	196.	6,075.00	to	6,099.99	243
12	197.	6,100.00	to	6,124.99	244
13	198.	6,125.00	to	6,149.99	245
14	299.	6,150.00	to	6,174.99	246
15	200.	6,175.00	to	6,199.99	247
16	201.	6,200.00	to	6,224.99	248
17	202.	6,225.00	to	6,249.99	249
18	203.	6,250.00	to	6,274.99	250
19	204.	6,275.00	to	6,299.99	251
20	205.	6,300.00	to	6,324.99	252
21	206.	6,325.00	to	6,349.99	253
22	207.	6,350.00	to	6,374.99	254
23	208.	6,375.00	to	6,399.99	255
24	209.	6,400.00	to	6,424.99	256

1	210.	6,425.00	to	6,449.99	257
2	211.	6,450.00	to	6,474.99	258
3	212.	6,475.00	to	6,499.99	259
4	213.	6,500.00	to	6,524.99	260
5	214.	6,525.00	to	6,549.99	261
6	215.	6,550.00	to	6,574.99	262
7	216.	6,575.00	to	6,599.99	263
8	217.	6,600.00	to	6,624.99	264
9	218.	6,625.00	to	6,649.99	265
10	219.	6,650.00	to	6,674.99	266
11	220.	6,675.00	to	6,699.99	267
12	221.	6,700.00	to	6,724.99	268
13	222.	6,725.00	to	6,749.99	269
14	223.	6,750.00	to	6,774.99	270
15	224.	6,775.00	to	6,799.99	271
16	225.	6,800.00	to	6,824.99	272
17	226.	6,825.00	to	6,849.99	273
18	227.	6,850.00	to	6,874.99	274
19	228.	6,875.00	to	6,899.99	275
20	229.	6,900.00	to	6,924.99	276
21	230.	6,925.00	to	6,949.99	277
22	231.	6,950.00	to	6,974.99	278
23	232.	6,975.00	to	6,999.99	279
24	233.	7,000.00	to	7,024.99	280

1	234.	7,025.00	to	7,049.99	281
2	235.	7,050.00	to	7,074.99	282
3	236.	7,075.00	to	7,099.99	283
4	237.	7,100.00	to	7,124.99	284
5	238.	7,125.00	to	7,149.99	285
6	239.	7,150.00	to	7,174.99	286
7	240.	7,175.00	to	7,199.99	287
8	241.	7,200.00	to	7,224.99	288
9	242.	7,225.00	to	7,249.99	289
10	243.	7,250.00	to	7,274.99	290
11	244.	7,275.00	to	7,299.99	291
12	245.	7,300.00	to	7,324.99	292
13	246.	7,325.00	to	7,349.99	293
14	247.	7,350.00	to	7,374.99	294
15	248.	7,375.00	to	7,399.99	295
16	249.	7,400.00	to	7,424.99	296
17	250.	7,425.00	to	7,449.99	297
18	251.	7,450.00	to	7,474.99	298
19	252.	7,475.00	to	7,499.99	299
20	253.	7,500.00	to	7,524.99	300
21	254.	7,525.00	to	7,549.99	301
22	255.	7,550.00	to	7,574.99	302
23	256.	7,575.00	to	7,599.99	303
24	257.	7,600.00	to	7,624.99	304

1	258.	7,625.00	to	7,649.99	.....	305
2	259.	7,650.00	to	7,674.99	.....	306
3	260.	7,675.00	to	7,699.99	.....	307
4	261.	7,700.00	to	7,724.99	.....	308
5	262.	7,725.00	to	7,749.99	.....	309
6	263.	7,750.00	to	7,774.99	.....	310
7	264.	7,775.00	to	7,799.99	.....	311
8	265.	7,800.00	to	7,824.99	.....	312
9	266.	7,825.00	to	7,849.99	.....	313
10	267.	7,850.00	to	7,874.99	.....	314
11	268.	7,875.00	to	7,899.99	.....	315
12	269.	7,900.00	to	7,924.99	.....	316
13	270.	7,925.00	to	7,949.99	.....	317
14	271.	7,950.00	to	7,974.99	.....	318
15	272.	7,975.00	to	7,999.99	.....	319
16	273.	8,000.00	to	8,024.99	.....	320
17	274.	8,025.00	to	8,049.99	.....	321
18	275.	8,050.00	to	8,074.99	.....	322
19	276.	8,075.00	to	8,099.99	.....	323
20	277.	8,100.00	to	8,124.99	.....	324
21	278.	8,125.00	to	8,149.99	.....	325
22	279.	8,150.00	to	8,174.99	.....	326
23	280.	8,175.00	to	8,199.99	.....	327

1	281.	8,200.00	to	8,224.99	.....	328
2	282.	8,225.00		and over	.....	329
3	<hr/>					

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3682/P3ins
RAC:.....

Pass 14-21

SECTION 1. 230.12 (1) (g) of the statutes is created to read:

230.12 (1) (g) *Temporary reserve appeal tribunal.* The compensation plan shall include a provision authorizing the department of workforce development to pay any individual who was previously employed by the department of workforce development and who is appointed *to limited term employment* as a temporary reserve appeal tribunal under s. 108.09 (3) (a) 2, *not more than* the base pay rate that the individual was paid at the time of his or *her?* separation from the department of workforce development, plus any across-the-board and discretionary intervening adjustments that were made under the compensation plan or applicable collective bargaining agreement to the base pay rate *for the position that was previously filled by the individual* during the time between the individual's separation from the department of workforce development and the individual's appointment as a temporary reserve tribunal. For the purpose of calculating the amount of any discretionary intervening adjustment, the amount shall be limited to the amount that would have been generated by the employee.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3682/P3dn
JTK.....

Michelle Kho:

1. This draft should include all items except coverage of and financing of benefits by Indian tribes, treatment of professional employer organizations and deferral of first quarter UI contribution payments. The next draft will contain these items and should be out sometime next week.
2. The changes related to electronic reporting of wage record information by employer agents were included in the law change proposal I received from you. This draft deletes those changes.
3. In this draft, we based the benefit rate schedules on 1999 SB-255 but substituted new figures. Therefore, there is some greater potential for error than if we had taken the figures from your electronic base, but I think we have them correct. Caroline Haugen was able to derive them from the chart you sent over.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3682/P3dn
JTK.....pg

September 19, 2001

Michelle Kho:

1. This draft should include all items except coverage of and financing of benefits by Indian tribes, treatment of professional employer organizations and deferral of first quarter UI contribution payments. The next draft will contain these items and should be out sometime next week.
2. The changes related to electronic reporting of wage record information by employer agents were included in the law change proposal I received from you. This draft deletes those changes.
3. In this draft, we based the benefit rate schedules on 1999 SB-255 but substituted new figures. Therefore, there is some greater potential for error than if we had taken the figures from your electronic base, but I think we have them correct. Caroline Haugen was able to derive them from the chart you sent over.

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

Statutory Changes to Cover Indian Tribes Under Ch. 108

108.02

(10m) EDUCATIONAL SERVICE AGENCY. "Educational service agency" means a governmental entity or Indian tribal unit which is established and operated exclusively for the purpose of providing services to one or more educational institutions.

(13) EMPLOYER. (a) "Employer" means every government unit, Indian tribe and any person, association, corporation, whether domestic or foreign, or legal representative, debtor in possession or trustee in bankruptcy or receiver or trustee of a person, partnership, association or corporation, or guardian of the estate of a person, or legal representative of a deceased person, any partnership or partnerships consisting of the same partners, except as provided in par. (L), any limited liability company or limited liability companies consisting of the same members, except as provided in par. (kL), and any fraternal benefit society as defined in s. 614.01 (1) (a), which is subject to this chapter under the statutes of 1975, or which has had employment in this state and becomes subject to this chapter under this subsection and, notwithstanding any other provisions of this section, any service insurance corporation organized or operating under ch. 613.

(15)(f) "Employment" as applied to work for a government unit or an Indian tribe, except as such unit or tribe duly elects otherwise with the department's approval, does not include service:

1. As an official elected by vote of the public;
2. As an official appointed to fill part or all of the unexpired term of a vacant position normally otherwise filled by vote of the public;
3. As a member of a legislative body or the judiciary of a state or political subdivision;
4. As a member of the Wisconsin national guard in a military capacity;
5. As an employee serving solely on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; or
6. In a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, or is designated as a policymaking or advisory position the performance of the duties of which does not ordinarily require more than 8 hours per week.

(15)(g) "Employment" as applied to work for a government unit, an Indian tribe or a nonprofit organization, except as such unit, tribe or organization duly elects otherwise with the department's approval, does not include service:

1. By an individual receiving work relief or work training as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, unless otherwise required as a condition for participation by the unit or organization in such program;
2. In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency

- or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or
3. By an inmate of a custodial or penal institution.

(17m) For purposes of this chapter, the term "Indian tribe" has meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), and includes any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe.

Note: This provision is new. The language is from sec. 3306(u) of FUTA, as amended by the federal legislation mandating state UI coverage of Indian tribes.

(22m) SCHOOL YEAR EMPLOYEE. "School year employee" means an employee of an educational institution or an educational service agency, or an employee of a government unit Indian tribe or nonprofit organization which provides services to or on behalf of an educational institution, who performs services under an employment contract which does not require the performance of services on a year-round basis.

108.04

(17)(b) A school year employee of a government unit, Indian tribe or nonprofit organization which provides services to or on behalf of an educational institution who performs services in an instructional, research or principal administrative capacity is ineligible for benefits based on such services for any week of unemployment which occurs:

1. During the period between 2 successive academic years or terms, if the school year employee performed such services for such a government unit, Indian tribe or nonprofit organization in the first such year or term and if there is reasonable assurance that he or she will perform such services for such a government unit, Indian tribe or nonprofit organization in the 2nd such year or term; or
2. During the period between 2 regular but not successive academic terms, when an agreement between an employer and a school year employee provides for such a period, if the school year employee performed such services for such a government unit, Indian tribe or nonprofit organization in the first such term and if there is reasonable assurance that he or she will perform such services for such a government unit, Indian tribe or nonprofit organization in the 2nd such term.

(17)(h) A school year employee of a government unit, Indian tribe or nonprofit organization which provides services to or on behalf of an educational institution who performs the services described in par. (b) or (e) is ineligible for benefits based on such services for any week of unemployment which occurs during an established and customary vacation period or holiday recess if the school year employee performed such services for such a government unit, Indian tribe or nonprofit organization in the period immediately before the vacation period or holiday recess, and there is reasonable assurance that the school year employee will perform the services described in par. (b) or (e) for such a government unit, Indian tribe or nonprofit organization in the period immediately following the vacation period or holiday recess.

(b) The department shall charge the full amount of extended

108.141

(7)(c) The department shall charge the full amount of extended benefits based on employment for an Indian tribe to the account of the Indian tribe.

Note: This is new. Under the federal legislation mandating state coverage of Indian tribes, the states may elect to charge the full amount of extended benefits to the tribes because the tribes do not pay FUTA tax, which is the source of the 50% federal share of extended benefits

108.152 Benefits for employees of Indian tribes.

(1) BENEFIT PAYMENTS. Benefits shall be payable from the fund to any employee of an Indian tribe, if unemployed and otherwise eligible, based on "employment" by any Indian tribe which is an "employer" covered by this chapter.

(2) EMPLOYER'S CONTRIBUTION RATE. Each Indian tribe which is or becomes subject to this chapter shall be subject to all its provisions except as it may elect reimbursement financing in accordance with sub. (3). 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

(3) ELECTION OF REIMBURSEMENT FINANCING. Any Indian tribe may, in lieu of the contribution requirements of ss. 108.17 and 108.18, elect reimbursement financing for itself as a whole or for any tribal units or combinations of tribal units which are wholly owned subdivisions, subsidiaries or business enterprises of the tribe, as of the beginning of any calendar year, subject to the following requirements:

(a) It shall file a written notice to that effect with the department before the beginning of such year except that if the Indian tribe or tribal unit became newly subject to this section as of the beginning of such year, it shall file the notice within 30 days after the date of the determination that it is subject to this chapter.

(b) An Indian tribe whose prior election of reimbursement financing has been terminated pursuant to sub. (4)(a) may not thereafter reelect reimbursement financing unless it has been subject to the contribution requirements of ss. 108.17 and 108.18 for at least 3 calendar years thereafter and is not, at the time of filing such reelection, delinquent under s. 108.22.

(c) No election of reimbursement financing shall be valid unless the Indian tribe has satisfied the requirements of sub. (5) within 60 days after it filed the notice of election.

(d) Sections 108.17 and 108.18 shall apply to all prior employment, but after all benefits based on prior employment have been charged to any account it has had under s. 108.16 (2) any balance remaining therein shall be transferred to the balancing account as if s. 108.16 (6) (c) or (6m) (d) applied.

(4) TERMINATION OF ELECTION. An Indian tribe who elected reimbursement financing for itself or for any tribal unit may terminate any election as of the close the 2nd calendar year to which such election applies, or at the close of any subsequent calendar year, by filing a written notice to that effect with the department before the close of such calendar year;

(5) ASSURANCE OF REIMBURSEMENT. The provisions of s. 108.151(4) apply to Indian tribes.

(6) REIMBURSEMENT ACCOUNT. The provisions of s. 108.151(5) apply to Indian tribes. The department shall establish reimbursement accounts for Indian tribes and tribal units or combinations of tribal units in accordance with the valid elections made under sub (3).

(7) GROUP REIMBURSEMENT ACCOUNTS. An Indian tribe which has elected reimbursement financing for tribal units or one or more combinations of tribal units, may file a request to have specified tribal units treated as one employer for purposes of this chapter provided that:

- (a) They shall be so treated for at least the 3 calendar years following their request, unless their election of reimbursement financing is terminated under subs (3). (8), but the tribe may discontinue the group arrangement as of the beginning of any subsequent calendar year by filing advance notice with the department
- (b) The tribal units shall be jointly and severally liable for any required reimbursements together with any interest thereon and any tardy filing fees.
- (c) The tribe shall designate one or more individuals as agent for all members of the group for all fiscal and reporting purposes under this chapter.

(8) FAILURE TO MAKE REQUIRED PAYMENTS OR FILE ASSURANCE OF REIMBURSEMENT. (a) If an Indian tribe or tribal unit fails to pay required contributions, reimbursements in lieu of contributions, penalties, interest or fees within 90 days of a final notice of delinquency, or fails to file or maintain the required assurance of reimbursement under subs (3)(c) and (5):

- 1. The department shall immediately notify the United States Internal Revenue Service and the United States Department of Labor of such failure.
 - 2. Any valid election of reimbursement financing is terminated as of the end of the current calendar year and any pending election which fails to meet the requirement to file an assurance of reimbursement under sub (3)(c) is terminated immediately.
 - 3. The department may consider services performed for the Indian tribe to not be "employment" for purposes of this chapter and may terminate coverage of the tribe as an "employer".
- (b) An Indian tribe whose prior election of reimbursement financing has been terminated under par. (a) may not thereafter reelect reimbursement financing unless it has been

subject to the contribution requirements of ss. 108.17 and 108.18 for at least one calendar year thereafter and is not delinquent under s. 108.22 at the time it files an election.

- (c) The final notice of delinquency specified in par. (a) shall include information that failure to make full payment within the prescribed time will cause the tribe to be liable for taxes under FUTA, will cause the tribe to lose the option to make payments in lieu of contributions and could cause the department to determine that the tribe is not an "employer" and that services for the tribe are not "employment" under this chapter.

Kuesel, Jeffery

From: Smith, Thomas E - DWD UI
Sent: Friday, September 14, 2001 2:15 PM
To: Kuesel, Jeffery
Subject: Statutory Changes to Create PEO Definition Under Ch 108

Jeff:

Here is the conceptual draft for the "PEO" definition. The main idea is to split the current 108.02(12m) into two separate types of employee services: Temporary Help agencies and Employee Leasing (The industry prefers the term professional employer organization or PEO) which the department will recognize as the employer for purposes of Ch. 108.

This draft is a bit more "quick and dirty" than the Indian tribe draft and may contain internal inconsistencies and other errors or omissions.

In reference to Indian tribes, I found another provision to which I think we need to add the term "Indian tribe". See 108.02(15)(n).

Please call or e-mail if you have questions. 266-9641



Statutory Changes
to Create PE...

Statutory Changes to Create PEO Definition Under Ch. 108

108.02(21m) Professional Employer Organization. “Professional employer organization”, (PEO), means any person who contracts to provide the permanent employee workforce of a client under a written employee leasing contract and who under contract and in fact:

- (a) Hires and terminates the permanent employees who perform services for its clients;
- (b) Determines the job assignments of permanent employees and assigns them on a permanent basis to perform service for the client;
- (c) Sets the rate of pay of the permanent employees, whether or not through negotiation;
- (d) Has the obligation to and pays the permanent employees from its own accounts
- (e) Has a general right of direction and control over the permanent employees it provides to its clients, including corporate officers, which general right may be shared with the client. However, the client’s retention of a degree of direction and control necessary to allow the client to conduct its business, meet any fiduciary responsibility or comply with any applicable regulatory or statutory requirements shall not be deemed to negate the general or shared right of the professional employer organization;
- (f) Assumes responsibility for the unemployment insurance coverage of the permanent employees, files all required reports pays all required contributions due on the wages of those employees and otherwise complies with all the provisions of this chapter applicable to employers.
- (g) Has the obligation to establish, fund and administer any employee benefits plans for the permanent employees it provides to its clients.
- (h) Provides notice of the employee leasing arrangement to the permanent employees it assigns to its clients.
- (i) Gives written notice to the department of any employee leasing agreement in such manner as the department prescribes.

108.02(1224m) EMPLOYEE SERVICE/TEMPORARY HELP COMPANY. “Employee service/Temporary help company” means ~~an leasing company or temporary help service~~ entity which contracts with clients or customers to supply individuals to perform services for the client or customer on a temporary basis to support or supplement the workforce of the client or customer in situations such as employee absences, temporary worker shortages, seasonal workload conditions and special assignments and projects and which, both under contract and in fact:

- (a) Negotiates with clients or customers for such matters as time, place, type of work, working conditions, quality, and price of the services;
- (b) Determines assignments or reassignments of individuals to its clients or customers, even if the individuals retain the right to refuse specific assignments;
- (c) Sets the rate of pay of the individuals, whether or not through negotiation;
- (d) Pays the individuals from its account or accounts; and
- (e) Hires and terminates individuals who perform services for the clients or customers.

108.65 Determination of employer. (1) ~~An employee service~~temporary help company is the employer of an individual who the company engages in employment to perform services for a client or customer of the company.

(2) Renumber to (4)

New:

108.65(2): A professional employer organization is the employer of the permanent employees it engages in employment to perform services for its clients, including corporate officers if the officer's position is included in the employee leasing agreement.

(3) PROFESSIONAL EMPLOYER ORGANIZATION MISCELLANEOUS PROVISIONS.

(a) Each professional employer organization shall annually submit to the department, no later than March 31, a list of all clients with which the PEO has employee leasing agreements, in such form and content as the department shall prescribe.

(a) If an employee leasing agreement is terminated, the professional employer organization and the client shall so notify the department within 10 working days.

(b) If a professional employer organization fails to file required reports when due or fails to pay required contributions, interest, penalties or fees when due, the department may cease to recognize the PEO as the employer of the client's permanent employees as of the beginning of the next calendar year.

(c) A professional employer organization shall not be considered a successor to the client's employer account under s. 108.16 by virtue of engaging prior employees of the client to perform services for the client under an employee leasing agreement.

(d) Notwithstanding s. 108.02(13(i), the department will maintain the employer account of a PEO client in an open but inactive status for a period of 5 full calendar years after the commencement of an employee leasing agreement between the client and a PEO. If the employee leasing agreement is terminated prior to the end of the 5-year period the client may

so notify the department and resume reporting its permanent employees under its own account. S. 108.02(13)(i) shall apply if the employee leasing agreement is terminated before the end of the 5-year period and the conditions for termination of coverage set forth therein exist.

Statutory Change for Deferral of First Quarter UI Tax

Ex as given in pars (d) & (e)
108.17(2r) An employer with a first quarter contribution liability of \$5000 or more may defer payment to later due dates beyond the normal due date of up to 60% of its first quarter contribution liability *w/o interest* as follows:

- (a) At least 30% of the first calendar quarter contribution liability shall be paid on or before July 31 of the same year.
- (b) At least an additional 20% of the first calendar quarter contribution liability shall be paid on or before October 31 of the same year.
- (c) Any remaining balance ~~At least 10%~~ of the first calendar quarter contribution liability shall be paid on or before January 31 of the succeeding year.
- (b) (d) An employer may pay more than the specified minimum deferred amount or all of the deferred contribution amount at any time before the due date.
- (d) (e) If an employer fails to pay at least 40% of its first quarter liability on or before April 30 of the same year the employer is not permitted to defer the balance of the liability.
- (c) (f) If an employer fails to pay at least the minimum deferred amount by a specified due date, then all unpaid contribution liability for the first quarter shall be delinquent under s. 108.22 and interest thereon shall run from April 30 of the year of the liability. *(c)* An employer shall not be allowed to defer first quarter contribution payments for the succeeding year unless all delinquent contributions, interest, penalties and fees have been paid prior to April 30 of the succeeding year.

Note: The UI Advisory Council agreed on 9/19/01 that the effective date provision should be worded to the effect that this change would be effective no later than 2004

S:\bola\01 law change drafts\bola\9-19-01.Statutory change for deferral of first quarter UI tax.mk.doc

108.22 (c) (6)

Statutory Provision for Expansion of E-Services

108.14(2e) The department may provide a secure means of electronic interchange between itself and employing units, benefit claimants and other persons which, upon request to and with prior approval by the department, may be used for department transmission and receipt of specified documents related to the administration of this chapter and which means is in lieu of facsimile or any other means of transmission or receipt specified elsewhere in this chapter. If a due date is established by statute for the receipt of any document that is submitted electronically to the department under this subsection, then that submitted document is timely only if it is received by midnight of the statutory due date.

September 19, 2001
Michelle Kho

- ✓ Note: Jeff, if you want to continue to work on the PEO section, that's fine because Tom says any changes will be minor. Also, Tom is waiting for some stuff from DHFS for that independent nursing excluded employment provision, so he won't be able to get started on drafting that section until probably Friday, 9/21.

**Response to Drafter's Note LRB-3682/P2dn (Dated 9/14/01)
and Additional Comments**

- ✓ 1. Okay.
✓ 2. Okay.
✓ 3. Initial applicability date for TRA noncharge should NOT be retroactive. On p. 17, lines 6-8, it should say:

(3) The treatment of section 108.04(16)(b) of the statutes first applies with respect to ~~weeks of unemployment or voluntary terminations occurring on January 7, 2001~~ determinations issued under section 108.09 or 108.10 of the statutes on December 30, 2001.

- ✓ 4. What you did is okay.

- ✓ 5. With respect to the funding for IT systems development, I'm not too sure I understand the issue so I talked with Dick Tillema. Dick continues to think that the funds should go into 20.445(1)(gh) and not (1)(nb). He stated that (1)(nb) is a federal appropriation and we're assessing a fee on state contributions. Also, he thought it would be more forthcoming to the public to put it in the assessments section. So for 2001-2002, the amount would be \$1,063,200 in 2001-02, and \$2,444,300 in 2002-03. I'm not sure if I'm missing something here - if so, please advise.

- ✓ 6. Okay
✓ 7. Right, okay
8. Okay
✓ 9. Okay

Additional Comments

1. On p. 4, under coverage of certain nonresident aliens, change:

Currently, the services of nonresident aliens in the listed classifications who are lawfully admitted to the United States are ~~potentially~~ subject to contribution requirements (taxes) under the state unemployment insurance law ~~and employees who are lawfully admitted, nonresident aliens are potentially eligible to claim benefits~~ but not eligible to claim benefits. This

bill eliminates coverage of services . . . by these individuals and ~~precluding these individuals from claiming benefits~~. The change applies retroactively to January 1, 2001.

- ✓ 2. On p.11, line 14, replace "2nd reporting period" with "4th quarter".
- ✓ 3. With respect to social security offset, the description correctly describes the change of the elimination in 2004 and the reduction of the offset to 25% in 2003, but the law change provision itself only shows the complete elimination of the offset.
- ✓ 4. Page 1 indicates "Other Benefit Changes." As these are the first benefit changes addressed, the word "Other" is confusing as it makes it appear there is some missing information. Is this because there will be a special benefit section relating to the benefit rate changes?
5. A couple of typos:
 - ✓ - Page 2, third line from the bottom of the "Charging of certain benefits" section - "... do no pay" ... should be "... do not pay ...". Presumably that correction is still coming.
 - ✓ - Page 5, first line of the section on "Partial Successorship" - "form" should be "from".
 - ✓ - On p. 6, under "fraud detection and prosecution" section, last sentence is "so no such report is required."
- ✓ 6. On page 17, section 30, lines 14 through 15 should read:
 - (6) The treatment of section 108.16(8)(b)(intro) and 2., (c)~~(intro.)~~ and 4., (e) 4. and (f) first applies to partial transfers of businesses occurring . . .
- ✓ 7. On the phone earlier this week I mentioned that the council wants a nonstatutory directive indicating that we would allocate resources to verify claimant eligibility. You thought this wouldn't be tough to draft - we don't want to specify either the amount of resources or the number of positions or anything like that so here is some tentative language we came up with (if you come up with something better, that would be great):

The department [i.e., the UI Division] will allocate existing resources to conduct reviews of claimants to verify work search and other conditions of eligibility.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin
Department of Workforce Development
UI Bureau of Legal Affairs
(608) 266-6684

Date: **September 24, 2001**
To: Jeffery Kuesel
From: Michelle Kho
Bureau of Legal Affairs
Subject: Response to DN dated 9/19 &
Notes on LRB 3682/p3 and

Note: Jeff, we are still waiting for info from DHFS on the independent nurse exclusion and on our tax bureau for info to complete the PEO changes, but we hope to get them tomorrow and also to you also by tomorrow (Tues.) at the latest.

- ✓ 1. Response to Drafter's Note dated 9/19 – Okay to the three comments (they do not seem to require any additional special action)
- ✓ 2. On page 37 of LRB3682/p3, line 3, change:

transferor's experience to the ~~transferee~~ successor in proportion to the payroll assignable . . .
- ✓ 3. Section 23 (p. 38) and the initial application section for employer agent reporting (p. 43, line 9) do not have to reference 108.205(2) and (3) because we are no longer changing or creating these sections (after you made changes we requested to this most recent draft).
- ✓ 4. Under Electronic submissions on p. 5, the description is changed to fit the changes we made in the last set of comments. Starting in line 4,

This bill specifically permits DWD to provide a secure means of electronic interchange between itself and employing units, claimants, and other customers persons which, upon request ~~of a customer to~~ and approval by the department, may be used by the department and the ~~customer~~ person to ~~submit~~ send and receive electronically any document that is used in the administration of the unemployment insurance law in lieu of any other means of ~~submission~~. The bill also provides that if a due date is established by statute for the ~~submission~~ receipt of any document and that document is submitted electronically, then ~~that submission~~ the

document is received timely only if the document is submitted by midnight of that due date.

- ✓ 5. On p. 13, lines 16-17 (sec. 25), the addition we made (i.e., that which is underlined in the /P3 draft) can be removed because it is redundant now that we have changed the definition of contribution under 108.225(1)(a) to "include reimbursements under s. 108.15 or 108.151".

If an employer owes any contributions, ~~reimbursements under s. 108.15 or 108.151~~, interest, . . .

- ✓ 6. On p. 14, line 7, we want to add the Indian tribe provision, s. 108.152:

reimbursement under s. 108.15, ~~or 108.151~~, or 108.152, interest . . .

- ✓ 7. On p. 3, under Charging of certain benefits paid after recall, the fourth from the last line should say – "Under this bill, the cost of benefits to the recalling employer is charged . . ."

- ✓ 8. In sec. 21, lines 21 through 22 provide, in part:

that finances benefits ~~under s. 108.15 or 108.151~~ by reimbursement in lieu of contributions under ss. 108.15, 108.151 or 108.152 shall . . .

Date: **September 25, 2001**
To: Jeffery Kuesel
From: Michelle Kho
Bureau of Legal Affairs
Subject: Additional Notes on LRB 3682/p3

Note: Jeff, we haven't gotten any feedback from DHFS, but the language that Tom came up with for the nursing exclusion is below. We are just waiting to hear from tax about the PEO changes.

1. **New language for the exclusion from "employment" of certain services to medicare recipients:**

108.02(15)(k)20. For a medicaid recipient under the Wisconsin medicaid program that are:

- a. Private duty nursing services covered under HFS 107.12 or skilled nursing services covered under HFS 107.11(6) performed by an individual who is certified as a medicaid provider either as a nurse in independent practice under HFS 105.19 or an independent nurse practitioner under HFS 105.20, or
- b. Respiratory care services covered under HFS 107.113 by an individual certified as a medicaid provider under HFS 105.19 and who is certified as a respiratory care therapist in independent practice under MED 20.

✓ 2. On p. 2, fifth line down, the date should be "on or after December 3130, 2001, and before . . ."

✓ 3. Our change to 108.04(16)(b) is just a technical change to cite to the correct provision (the EDWAA section is no longer in existence, as you pointed out in an earlier DN). Accordingly, we think the initial applicability section on p. 43, lines 4-6 can be removed and would like the section to become effective on the effective date.