



(DRAFT)  
State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3070/P3

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAC

Repeal Cat

1 AN ACT *to repeal* 108.02 (12) (bm) 1., 108.04 (1) (c), 108.04 (13) (g), 108.17 (2b),  
2 108.17 (2g), 108.205 (4), 108.22 (1) (a) 1. and 2., 108.22 (1) (ac) and 108.22 (1)  
3 (ad); *to renumber and amend* 108.04 (1) (a), 108.17 (5), 108.22 (1) (a) (intro.),  
4 108.22 (1) (ac) and 108.22 (1) (ae); *to amend* 20.445 (1) (nc), 108.02 (12) (bm)  
5 (intro.), 108.02 (15m) (a), 108.02 (21) (b), 108.04 (1) (g) 1. and 2., 108.04 (1) (gm)  
6 4. c., 108.04 (7) (k), 108.04 (7) (o), 108.04 (11) (a), 108.04 (11) (bm), 108.04 (11)  
7 (c), 108.04 (11) (cm), 108.04 (13) (c), 108.04 (13) (e), 108.04 (13) (f), 108.04 (16)  
8 (a) (intro.), 108.04 (16) (b) and (c) 2., 108.04 (16) (c) 1., 108.04 (16) (c) 2., 108.05  
9 (3) (a), 108.05 (3) (b) 1. a. to c., 108.05 (3) (c), 108.066 (3) (d), 108.067 (1), 108.151  
10 (7) (e), 108.151 (7) (h), 108.16 (6) (f), 108.16 (8) (b) 4., 108.17 (2), 108.17 (2b),  
11 108.17 (2b), 108.17 (2g), 108.17 (2g), 108.18 (8), 108.19 (1e) (a), 108.19 (1m),  
12 108.20 (3), 108.20 (3), 108.205 (2), 108.205 (2), 108.205 (2), 108.22 (1) (a), 108.22  
13 (1) (ac) 2., 108.22 (1) (am), 108.22 (1) (am), 108.22 (1) (c) and 108.22 (9); *to*  
14 *repeal and recreate* 108.04 (1) (b) and 108.04 (11) (b); and *to create* 108.02  
15 (15s), 108.02 (20m), 108.04 (1) (a) 1. and 2., 108.04 (11) (be), 108.04 (11) (f),

1 ~~108.05 (3) (d), 108.17 (7), 108.22 (1) (ac) 2. and 108.22 (1) (af) of the statutes;~~  
2 **relating to:** various changes in unemployment insurance law and making an  
3 appropriation.

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***Analysis by the Legislative Reference Bureau***

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

**BENEFIT RATE CHANGES**

**OTHER BENEFIT CHANGES**

***Benefit eligibility for claimants receiving wages or other payments***

Currently, a claimant is ineligible to receive benefits for a week if the claimant is engaged in employment covered under the unemployment insurance law with an employer from which the claimant received at least 80 percent of his or her weekly wages or certain other payments during his or her base period (qualifying work period) and the claimant works for at least 35 hours in that work or receives certain other payments from that employer that, alone or in combination with wages, are equivalent to wages for at least 35 hours of work. This bill reduces the weekly number of hours of work for which wages or other payments result in ineligibility to 32 hours per week. Currently, a claimant is ineligible to receive benefits for a week in which the claimant works for at least 40 hours in one or more jobs. This bill reduces the weekly number of hours of work that result in ineligibility to 32 hours. Currently, with numerous exceptions, an employee who voluntarily terminates his or her work is ineligible to receive benefits until the employee requalifies by earning a specified amount of wages for performing certain qualified work and a specified period of time elapses following the termination. However, this restriction does not apply under certain conditions if an employee had certain other concurrent or recent work consisting of at least 30 hours per week. This bill increases the weekly number of hours of work that are required to exempt an employee from the requalification requirement to 32 hours per week.

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***Concealment***

Currently, if a claimant conceals any material fact relating to his or her eligibility for benefits or conceals any wages earned in or paid or payable for a given week, the claimant must forfeit not less than 25 percent nor more than 400 percent of the claimant's weekly benefit rate for the week for which the claim is made for an act of concealment that results in no overpayment or an overpayment of less than 50 percent of the claimant's weekly benefit rate; and not less than 100 percent nor more than 400 percent of the claimant's weekly benefit rate for the week in which the claim is made for an act of concealment that results in an overpayment of at least 50 percent of the claimant's weekly benefit rate. Currently, if a claimant is partially unemployed in a given week, the claimant may be eligible to receive benefits for that

week under a formula that takes into account the amount of wages or certain other benefits that the claimant receives for that week. *JNS 3B*

This bill provides that if a claimant conceals any material fact relating to his or her eligibility for benefits or conceals any wages earned in or paid or payable for a given week, the claimant must forfeit an amount equal to the claimant's weekly benefit rate for the week in which the claim is made for a first offense, the claimant must forfeit an amount equal to three times that rate for a second offense, and the claimant must forfeit ~~all benefits for a period of six years for a third offense~~. The bill also provides that if a claimant conceals any wages for a given week, the claimant is ineligible to receive any benefits for that week. *JNS 3A*

✓  
can amount equal to five times that rate for a third or subsequent offense

**Availability for work and ability to perform work**

Currently, with certain exceptions, a claimant is eligible for benefits for any week in which the claimant earns no wages only if the claimant is able to work and available for work during that week. If a claimant earns some wages (or certain amounts treated as wages) for a given week, and the claimant's work is suspended by the claimant or by his or her employer or the claimant is terminated by his or her employer, the claimant may be eligible for some benefits for that week under a statutory benefit reduction formula. The formula is also applied to potentially reduce the benefits payable to a claimant for a given week if the claimant is absent from work while claiming benefits. If a claimant is on a leave of absence for a definite period of time or on family or medical leave, the claimant is ineligible for benefits except that if the claimant receives some wages (or certain amounts treated as wages) for a given week, the claimant may be eligible for some benefits for that week under the benefit reduction formula. Currently, a claimant remains eligible for benefits while the claimant is enrolled in certain employment-related training.

This bill provides that if a claimant is absent from work with a current employer for two days or less in a given week (including the first week of a leave of absence, family or medical leave, or suspension or termination) because the claimant was unable to work or unavailable for work, the claimant may be eligible for some benefits for that week under the benefit reduction formula. However, if a claimant is absent from work with a current employer for more than two days in a given week, the claimant is ineligible for any benefits for that week. Under the bill, if a claimant's employment is suspended by the claimant or by his or her employer or is terminated by his or her employer due to claimant's unavailability for work or inability to perform suitable work, if a claimant is on a leave of absence for a definite period of time, or if a claimant is on family or medical leave for a given week (other than the first week of a leave), the claimant is ineligible for benefits for that week. A claimant remains eligible for benefits while the claimant is enrolled in certain employment-related training.

**Employee status**

Currently, in order to be eligible to claim unemployment insurance benefits, an individual must, in addition to other requirements, be an "employee" as defined in the unemployment insurance law. Generally, an "employee" is an individual who performs services for an employer in employment covered under the unemployment insurance law, whether or not the individual is directly paid by the employer.

However, an individual is not an "employee" if the individual performs services as an independent contractor. An individual, other than a logger or trucker performing services for an employer other than a governmental or nonprofit employer, must meet at least seven of ten conditions specified by law in order to qualify as an independent contractor.

This bill eliminates a condition which specified that the individual holds or has applied for an identification number with the federal Internal Revenue Service. Under the bill, a qualified individual must meet at least six of the remaining nine conditions in order to qualify as an independent contractor.

**TAX CHANGES**

***Special assessments for financing of information technology systems***

Currently, each employer that is subject to a contribution requirement must pay an annual special assessment for each year prior to 2008 in an amount that may not exceed the lesser of 0.01 percent of the employer's annual taxable payroll for UI 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. DWD must reduce the solvency contribution rate that an employer must pay in each year prior to 2008 by the special assessment rate applicable to that employer for that year. (The solvency contribution rate is the portion of an employer's rate that is used to maintain the solvency of the unemployment reserve fund.) This bill makes the special assessment requirement and solvency contribution rate offset applicable to calendar years 2008 through 2011.

**OTHER CHANGES**

***Reporting and payment requirements and procedures***

Currently, with certain exceptions, each employer that has employees who are engaged in employment covered by the unemployment insurance law must file quarterly contribution (tax) and wage reports and make quarterly payment of its contributions to the Department of Workforce Development (DWD). An employer of 50 or more employees or an employer agent that files reports on behalf of any employer must file its reports electronically. This bill phases in an electronic reporting requirement for all employers. Under the bill, by the third quarter of 2010, all employers are required to make wage reports electronically and contribution reports will no longer be required of any employer. The bill directs DWD to bill employers for their quarterly contribution payments due, based upon information provided by the employers in their quarterly wage reports. Each employer must then pay the amount billed.

Currently, there is no requirement or procedure established by law for making electronic payments of contributions. Effective in 2009, this bill requires each employer that makes contributions for any calendar year equal to a total of at least \$10,000 to make all contribution payments electronically in the following year. The bill also requires every employer agent to make contribution payments electronically by the same date. Currently, contribution payments must be received by DWD by the due date or if mailed must be postmarked by their due date or received within

requirements for additional employers with 25 or more employees and employers that become newly subject to reporting requirements

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the bill also

The bill also permits employers that file their wage reports electronically, in lieu of filing contribution reports, to request DWD to provide electronic notice of their contributions that are payable and to make electronic payment of their contributions

three days of their due date. This bill requires all contribution payments to be received by DWD by their due date.

***Failure of employers to provide information***

Currently, if benefits are erroneously paid because an employer fails to provide correct and complete information on a report to DWD, any benefits that DWD recovers do not affect charges to the employer's account for the cost of those benefits. In addition, prior to June 29, 2008, if benefits are erroneously paid because an employer fails to provide correct and complete information requested by DWD during a fact-finding investigation, but the employer later provides the requested information, then charges to the employer's account for the cost of benefits paid before the end of the week in which a redetermination or a decision of an appeal tribunal (hearing examiner) is issued regarding the matter are not affected by the redetermination or decision unless an appeal tribunal, the labor and industry review commission, or a court finds that the employer had good cause for failing to provide the information. This bill extends the current treatment by DWD of benefits erroneously paid indefinitely.

***Employment of certain parents by family-owned businesses***

Currently, with certain exceptions, the wages accruing to an individual that are used to compute the total benefits payable to the individual may not exceed ten times the individual's weekly benefit rate based solely on employment by a corporation, partnership, or limited liability company that is treated as a corporation or partnership for UI purposes in which the individual or a family member owns or controls a significant interest. Under current law, a "family member" includes a child. Currently, if a claimant is employed by a family business and terminates his or her employment because of cessation of business activity by the claimant's employer, the claimant is excluded from requirements to requalify before claiming benefits. This bill excludes a child from the benefit eligibility limitation, thereby potentially making the parent of a child who, with other family members, owns a significant interest in the business by which the parent is employed eligible for benefits on the same basis as other employees of other employers. The bill also excludes a child from the requalification exemption, thereby potentially making the parent of a child who, with other family members, owns a significant interest in a business from which the parent terminates his or her employment eligible for benefits on the same basis as claimants who terminate their employment with other employers.

***Unemployment insurance administration funding***

Currently, the federal government provides regular grants to this state for the purpose of financing the cost of administration of the UI program. In addition, the federal government provides special grants to this state that may be used for the purpose of administration of UI, for the payment of UI benefits, or for certain other purposes. Currently, only the first \$3,289,107 of the moneys in a special grant for federal fiscal year 2002 may be used for UI administration. This bill permits ~~all of~~ the moneys received in the special grant for federal fiscal year 2002 to be used for UI administration. The bill also permits ~~the first~~ \$1,000,000 of the moneys received by this state in a special federal grant for federal fiscal year ~~2008~~ and the first

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an additional \$1,000,000 of

another

2002  
on or after October 1, 2008  
\$1,000,000 of the moneys received in a special federal grant for federal fiscal year 2009 to be expended for the same purpose. Under the bill, none of the moneys may be encumbered or expended after September 30, 2009. The expenditure authorizations potentially increase the liability of employers to finance UI benefits through contributions (taxes).

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

*JWS*  
*6-1*  
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows: ✓

*new*  
SECTION 1. 20.445 (1) (nc) of the statutes is amended to read:

20.445 (1) (nc) *Unemployment insurance administration; special federal*  
*From the* ~~strike~~ *amount equal to \$4,289,107 of the moneys*  
*plain*  
moneys. All moneys received from the federal government under section 903 of the federal Social Security Act, as amended, for federal fiscal years 2000 and 2001 and the first \$3,289,107 of the moneys received from the federal government under that act for federal fiscal year 2002, ~~the first \$1,000,000 of the moneys received from the~~ *\$4,289,107 beginning on October 1, 2007, \$4,289,107*  
*and on October 1, 2008, an additional*  
federal government under section 903 of that act for federal fiscal year 2008, and the ~~first \$1,000,000 of the moneys received from the federal government under section~~  
~~903 of that act for federal fiscal year 2009~~ *2009*, as authorized by the governor under s. 16.54, to be used for administration of unemployment insurance. No moneys may be encumbered or expended from this appropriation after September 30, 2007 2009.

*JWS*  
*6-11*  
SECTION 2. 108.02 (12) (bm) (intro.) of the statutes is amended to read:

108.02 (12) (bm) (intro.) During the period beginning on January 1, 2000, with respect to contribution requirements, and during the period beginning on April 2, 2000, with respect to benefit eligibility, par. Paragraph (a) does not apply to an individual performing services for an employing unit other than a government unit or nonprofit organization in a capacity other than as a logger or trucker, if the

1 employing unit satisfies the department that the individual meets 7 6 or more of the  
2 following conditions by contract and in fact:

3 **SECTION 3.** 108.02 (12) (bm) 1. of the statutes is repealed.

4 **SECTION 4.** 108.02 (15m) (a) of the statutes is amended to read:

5 108.02 (**15m**) (a) A corporation or a limited liability company that is treated  
6 as a corporation under this chapter in which 50% or more of the ownership interest,  
7 however designated or evidenced, is or during a claimant's employment was owned  
8 or controlled, directly or indirectly, by the claimant or by the claimant's spouse or  
9 child, or by the claimant's parent if the claimant is under the age of 18, or by a  
10 combination of 2 or more of them; or

11 **SECTION 5.** 108.02 (15s) of the statutes is created to read:

12 108.02 (**15s**) FULL-TIME WORK. "Full-time work" means work performed for 32  
13 or more hours per week.

14 **SECTION 6.** 108.02 (20m) of the statutes is created to read:

15 108.02 (**20m**) PART-TIME WORK. "Part-time work" means work performed for  
16 less than 32 hours per week.

17 **SECTION 7.** 108.02 (21) (b) of the statutes is amended to read:

18 108.02 (**21**) (b) Notwithstanding par. (a), except as provided in s. 108.151 (7)  
19 (a), an employer's payroll includes only the first \$10,500 of wages paid by an  
20 employer to an individual during a calendar year, including any wages paid for any  
21 work covered by the unemployment insurance law of any other state, except as  
22 authorized in s. ~~108.17 (5)~~ 108.205 (3).

23 **SECTION 8.** 108.04 (1) (a) of the statutes is renumbered 108.04 (1) (a) (intro.)

24 and amended to read:

1           108.04 (1) (a) (intro.) ~~An employee's eligibility for benefits shall be reduced for~~  
2 ~~any week in which the~~ If an employee is with due notice called on by his or her current  
3 employing unit to report for work actually available within such a given week and  
4 is unavailable for, or unable to perform, ~~some or all of such available work.~~ the work:

5           (bm) For purposes of ~~this paragraph~~ par. (a) 1. and (b) 2., the department shall  
6 treat the amount that the employee would have earned as wages for that a given  
7 week in ~~such~~ available work as wages earned by the employee and shall apply the  
8 method specified in s. 108.05 (3) (a) to compute the benefits payable to the employee.  
9 The department shall estimate wages that an employee would have earned if it is not  
10 possible to compute the exact amount of wages that would have been earned by the  
11 employee.

12           **SECTION 9.** 108.04 (1) (a) 1. and 2. of the statutes are created to read:

13           108.04 (1) (a) 1. On not more than 2 days of the week, the employee's eligibility  
14 for benefits for that week shall be reduced under par. (bm).

15           2. On more than 2 days of the week, the employee is ineligible for benefits for  
16 that week.

17           **SECTION 10.** 108.04 (1) (b) of the statutes is repealed and recreated to read:

18           108.04 (1) (b) 1. Except as provided in subd. 2., an employee is ineligible for  
19 benefits while the employee is unable to work or unavailable for work because the  
20 employee's employment is suspended by the employee or the employee's employer or  
21 is terminated by the employee's employer due to the employee's unavailability for  
22 work or inability to perform suitable work otherwise available with the employee's  
23 employer, because the employee is on a leave of absence, or because the employee  
24 is on family or medical leave.



1           2. If an employee is absent from work on not more than 2 days in the first week  
2 of a leave taken under subd. 1. or in the week in which a suspension or termination  
3 under subd. 1. occurs, the employee's eligibility for benefits for that week shall be  
4 determined under par. (bm).

5           **SECTION 11.** 108.04 (1) (c) of the statutes is repealed.

6           **SECTION 12.** 108.04 (1) (g) 1. and 2. of the statutes are amended to read:

7           108.04 (1) (g) 1. Employment by a partnership or limited liability company that  
8 is treated as a partnership under this chapter, if a one-half or greater ownership  
9 interest in the partnership or limited liability company is or during such employment  
10 was owned or controlled, directly or indirectly, by the individual's spouse ~~or child~~, or  
11 by the individual's parent if the individual is under age 18, or by a combination of 2  
12 or more of them.

13           2. Employment by a corporation or limited liability company that is treated as  
14 a corporation under this chapter, if one-half or more of the ownership interest,  
15 however designated or evidenced, in the corporation or limited liability company is  
16 or during such employment was owned or controlled, directly or indirectly, by the  
17 individual or by the individual's spouse ~~or child~~, or by the individual's parent if the  
18 individual is under age 18, or by a combination of 2 or more of them.

19           **SECTION 13.** 108.04 (1) (gm) 4. c. of the statutes is amended to read:

20           108.04 (1) (gm) 4. c. Sale, due to economic inviability, if the sale does not result  
21 in ownership or control by substantially the same interests that owned or controlled  
22 the family corporation. It is presumed unless shown to the contrary that a sale, in  
23 whole or in part, to a spouse, or parent ~~or child~~ of an individual who owned or  
24 controlled the family corporation, or to any combination of 2 or more of them, is a sale  
25 to substantially the same interests that owned or controlled the family corporation.

25

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1 SECTION 14. 108.04 (7) (k) of the statutes is amended to read:

2 108.04 (7) (k) Paragraph (a) does not apply to an employee who terminates his  
 3 or her part-time work ~~consisting of not more than 30 hours per week~~ if the employee  
 4 is otherwise eligible to receive benefits because of the loss of the employee's full-time  
 5 ~~employment consisting of at least 32 hours per week~~ and the loss of the full-time  
 6 ~~employment~~ makes it economically unfeasible for the employee to continue the  
 7 part-time work.

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8 SECTION 15. 108.04 (7) (o) of the statutes is amended to read:

9 108.04 (7) (o) Paragraph (a) does not apply to an employee who terminates his  
 10 or her work in one of 2 or more concurrently held positions, at least one of which  
 11 consists of ~~more than 30 hours per week~~ full-time work, if the employee terminates  
 12 his or her work before receiving notice of termination from a position which consists  
 13 of ~~more than 30 hours per week~~ full-time work.

14 SECTION 16. 108.04 (11) (a) of the statutes is amended to read:

15 108.04 (11) (a) If ~~Except as provided in par. (b), if~~ a claimant, in filing his or her  
 16 application for benefits or claim for any week, conceals any part of his or her wages  
 17 earned in or paid or payable for that week, or conceals his or her refusal within that  
 18 week of a job offer or any other material fact relating to his or her eligibility for  
 19 benefits, so much of any benefit payment as that was ~~paid erroneously~~ made  
 20 such concealment shall be recovered by the department as an overpayment.

21 SECTION 17. 108.04 (11) (b) of the statutes is repealed and recreated to read:

22 108.04 (11) (b) If a claimant, in filing a claim for any week, conceals any of his  
 23 or her wages earned in or paid or payable for that week, the claimant shall be denied  
 24 benefits for that week and any benefits paid erroneously because of such  
 25 concealment shall be recovered by the department as an overpayment.

1 SECTION 18. 108.04 (11) (be) of the statutes is created to read:

2 108.04 (11) (be) A claimant shall forfeit benefits and be disqualified from  
3 receiving benefits for acts of concealment described in pars. (a) and (b) as follows:

4 1. A claimant shall forfeit an amount equal to the claimant's weekly benefit rate  
5 under s. 108.05 (1) for the week for which the claim is made for each single act of  
6 concealment occurring before the first determination of concealment under par. (a)  
7 or (b). *date of the*

8 2. A claimant shall forfeit 3 times the claimant's benefit rate under s. 108.05  
9 (1) for the week in which the claim is made for each single act of concealment *occurring*  
10 the date of the first determination of concealment but *on or before* prior to the date of the 2nd  
11 determination of concealment under par. (a) or (b).

*ins  
11-11*

12 3. A claimant is ineligible to receive benefits for a period of 6 years beginning  
13 with the week of a 2nd determination of concealment under par. (a) or (b) upon  
14 issuance of a 3rd determination of concealment under par. (a) or (b). A claimant shall  
15 also forfeit any unpaid benefits otherwise payable as of the date of a 3rd  
16 determination of concealment under par. (a) or (b). This subdivision does not  
17 preclude a claimant from establishing a benefit year during a period in which the  
18 claimant is ineligible to receive benefits under this subdivision if the claimant is  
19 eligible to establish a benefit year under s. 108.06 (2) (a).

20 SECTION 19. 108.04 (11) (bm) of the statutes is amended to read:

21 108.04 (11) (bm) The forfeiture established under par. ~~(b)~~ (be) may be applied  
22 against benefits which would otherwise become payable to the claimant for weeks  
23 of unemployment occurring after the week of concealment and within 6 years after  
24 the date of an initial determination issued under s. 108.09 finding that a concealment  
25 occurred. If no benefit rate applies to the week for which the claim is made, the

1 department shall use the claimant's benefit rate for the claimant's next benefit year  
 2 beginning after the week of concealment to determine the forfeiture amount. If the  
 3 benefits forfeited would otherwise be chargeable to an employer's account, the  
 4 department shall charge the amount of benefits forfeited to the employer's account  
 5 and shall credit the fund's balancing account for that amount. Any forfeiture amount  
 6 of less than \$1 shall be rounded up to the nearest whole dollar.

fix component

7 SECTION 20. 108.04 (11) (c) of the statutes is amended to read:

8 108.04 (11) (c) (intro.) Any employing unit that aids and abets a claimant in  
 9 committing an act of concealment described in par. (a) or (b) may, by a determination  
 10 issued under s. 108.10, be required, as to each act of concealment the employing unit  
 11 aids and abets, to forfeit an amount equal to the amount of the benefits the claimant  
 12 improperly received as a result of the concealment. The amount forfeited shall be  
 13 credited to the administrative account.

remembered 108.04 (11) (c) (intro.) and new

or attempts to aid and abet a claimant

NS 12-13

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14 SECTION 21. 108.04 (11) (cm) of the statutes is amended to read:

15 108.04 (11) (cm) If any person makes a false statement or representation in  
 16 order to obtain benefits in the name of another person, the benefits received by that  
 17 person constitute a benefit overpayment. Such person may, by a determination or  
 18 decision issued under s. 108.095, be required to repay the amount of the benefits  
 19 obtained and be assessed an administrative assessment in an additional amount  
 20 equal to not more than 50% of the amount of benefits obtained.

21 SECTION 22. 108.04 (11) (f) (and (g)) of the statutes is (are) created to read:

22 108.04 (11) (f) (to) For purposes of this subsection, "conceal" means intentionally  
 23 mislead or defraud the department by withholding or hiding information or making  
 24 a false statement or misrepresentation.

25 SECTION 23. 108.04 (13) (c) of the statutes is amended to read:

(c) All amounts forfeited under this subsection shall be credited to the administrative account. (g)

pars. (c) and (cm)

1           108.04 (13) (c) If an employer, after notice of a benefit claim, fails to file an  
2 objection to the claim under s. 108.09 (1), any benefits allowable under any resulting  
3 benefit computation shall, unless the department applies a provision of this chapter  
4 to disqualify the claimant, be promptly paid. Except as otherwise provided in this  
5 paragraph, any eligibility question in objection to the claim raised by the employer  
6 after benefit payments to the claimant are commenced does not affect benefits paid  
7 prior to the end of the week in which a determination is issued as to the eligibility  
8 question unless the benefits are erroneously paid without fault on the part of the  
9 employer. If, during the period beginning on January 1, 2006, and ending on June  
10 28, 2008, Except as otherwise provided in this paragraph, if an employer fails to  
11 provide correct and complete information requested by the department during a  
12 fact-finding investigation, but later provides the requested information, charges to  
13 the employer's account for benefits paid prior to the end of the week in which a  
14 redetermination is issued regarding the matter or, if no redetermination is issued,  
15 prior to the end of the week in which an appeal tribunal decision is issued regarding  
16 the matter, are not affected by the redetermination or decision, except unless the  
17 benefits are erroneously paid without fault on the part of the employer as provided  
18 in par. (g) (f). If benefits are erroneously paid because the employer and the employee  
19 are at fault, the department shall charge the employer for the benefits and proceed  
20 to create an overpayment under s. 108.22 (8) (a). If benefits are erroneously paid  
21 without fault on the part of the employer, regardless of whether the employee is at  
22 fault, the department shall charge the benefits as provided in par. (d), unless par. (e)  
23 applies, and proceed to create an overpayment under s. 108.22 (8) (a). If benefits are  
24 erroneously paid because an employer is at fault and the department recovers the

1 benefits erroneously paid under s. 108.22 (8), the recovery does not affect benefit  
2 charges made under this paragraph.

3 **SECTION 24.** 108.04 (13) (e) of the statutes is amended to read:

4 108.04 (13) (e) If the department erroneously pays benefits from one  
5 employer's account and a 2nd employer is at fault, the department shall credit the  
6 benefits paid to the first employer's account and charge the benefits paid to the 2nd  
7 employer's account. Filing of a tardy or corrected report or objection does not affect  
8 the 2nd employer's liability for benefits paid prior to the end of the week in which the  
9 department makes a recomputation of the benefits allowable or prior to the end of  
10 the week in which the department issues a determination concerning any eligibility  
11 question raised by the report or by the 2nd employer. ~~If, during the period beginning~~  
12 ~~on January 1, 2006, and ending on June 29, 2008,~~ the 2nd employer fails to provide  
13 correct and complete information requested by the department during a fact-finding  
14 investigation, but later provides the requested information, the department shall  
15 charge to the account of the 2nd employer the cost of benefits paid prior to the end  
16 of the week in which a redetermination is issued regarding the matter or, if no  
17 redetermination is issued, prior to the end of the week in which an appeal tribunal  
18 decision is issued regarding the matter, except unless the benefits erroneously are  
19 paid without fault on the part of the employer as provided in par. (g) (f). If the  
20 department recovers the benefits erroneously paid under s. 108.22 (8), the recovery  
21 does not affect benefit charges made under this paragraph.

22 **SECTION 25.** 108.04 (13) (f) of the statutes is amended to read:

23 108.04 (13) (f) If benefits are erroneously paid because the employer fails to file  
24 a report required by this chapter, the employer fails to provide correct and complete  
25 information on the report, the employer fails to object to the benefit claim under s.

1     108.09 (1), the employer fails to provide correct and complete information requested  
2     by the department during a fact-finding investigation, unless an appeal tribunal,  
3     the commission, or a court of competent jurisdiction finds that the employer had good  
4     cause for the failure to provide the information, or the employer aids and abets the  
5     claimant in an act of concealment as provided in sub. (11), the employer is at fault.  
6     If benefits are erroneously paid because an employee commits an act of concealment  
7     as provided in sub. (11) or fails to provide correct and complete information to the  
8     department, the employee is at fault.

9           **SECTION 26.** 108.04 (13) (g) of the statutes is repealed.

10          **SECTION 27.** 108.04 (16) (a) (intro.) of the statutes is amended to read:

11           108.04 (16) (a) (intro.) The department shall not reduce benefits under sub. (1)  
12     ~~(a)~~ (bm), or deny benefits under sub. (2) (a) or (d) or (8) or s. 108.141 (3g) to any  
13     otherwise eligible individual for any week as a result of the individual's enrollment  
14     in a course of vocational training or basic education which is a prerequisite to such  
15     training, provided the department determines that:

16          **SECTION 28.** 108.04 (16) (b) and (c) 2. of the statutes are amended to read:

17           108.04 (16) (b) The department shall not apply any benefit disqualification  
18     under sub. (1) (a) or (b) 1-, (7) (c), or (8) (e) or s. 108.141 (3g) that is not the result of  
19     training or basic education under par. (a) while an individual is enrolled in a course  
20     of training or education that meets the standards specified in par. (a).

21          **SECTION 29.** 108.04 (16) (c) 1. of the statutes is amended to read:

22           108.04 (16) (c) 1. The department shall not reduce benefits under sub. (1) ~~(a)~~  
23     (bm) or deny benefits under sub. (2) (a) or (d) or (8) or s. 108.141 (3g) to an otherwise  
24     eligible individual as a result of the individual's enrollment in such training; and

25          **SECTION 30.** 108.04 (16) (c) 2. of the statutes is amended to read:

1           108.04 (16) (c) 2. The department shall not apply benefit disqualifications  
2 under sub. (1) (a) or (b) 1, (7) (c), or (8) (e) or s. 108.141 (3g) that are not the result  
3 of the training while the individual is enrolled in the training.

4           **SECTION 31.** 108.05 (3) (a) of the statutes is amended to read:

5           108.05 (3) (a) Except as provided in pars. (b) ~~and~~, (c), and (d), if an eligible  
6 employee earns wages in a given week, the first \$30 of the wages shall be disregarded  
7 and the employee's applicable weekly benefit payment shall be reduced by 67% of the  
8 remaining amount, except that no such employee is eligible for benefits if the  
9 employee's benefit payment would be less than \$5 for any week. For purposes of this  
10 paragraph, "wages" includes any salary reduction amounts earned that are not  
11 wages and that are deducted from the salary of a claimant by an employer pursuant  
12 to a salary reduction agreement under a cafeteria plan, within the meaning of 26  
13 USC 125, and any amount that a claimant would have earned in available work  
14 which is treated as wages under s. 108.04 (1) ~~(a) (bm)~~, but excludes any amount that  
15 a claimant earns for services performed as a volunteer fire fighter, volunteer  
16 emergency medical technician, or volunteer first responder. In applying this  
17 paragraph, the department shall disregard discrepancies of less than \$2 between  
18 wages reported by employees and employers.

19           **SECTION 32.** 108.05 (3) (b) 1. a. to c. of the statutes are amended to read:

20           108.05 (3) (b) 1. a. The claimant ~~works~~ is engaged in full-time work for that  
21 employer ~~at least 35 hours~~ in that week at the same or a greater rate of pay, excluding  
22 bonuses, incentives, overtime or any other supplement to the earnings, as the  
23 claimant was paid by that employer in that quarter of the claimant's base period in  
24 which the claimant was paid his or her highest wages;



1           b. The claimant receives from that employer sick pay, holiday pay, vacation pay  
2 or termination pay which, by itself or in combination with wages earned for work  
3 performed in that week for that employer, is at least equivalent to pay for at least 35  
4 hours of full-time work at that same or a greater rate of pay; or

5           c. The amount that the claimant would have earned within that week from that  
6 employer in available work which is treated as wages under s. 108.04 (1) (a) (bm), by  
7 itself or in combination with the wages earned for work performed in that week for  
8 that employer and the pay received under subd. 1. b., is at least equivalent to pay for  
9 at least 35 hours of full-time work at that same or a greater rate of pay.

10           **SECTION 33.** 108.05 (3) (c) of the statutes is amended to read:

11           108.05 (3) (c) A claimant is ineligible to receive any benefits for a week in which  
12 the claimant works a total of 40 or more hours is engaged in full-time work for one  
13 or more employing units.

14           **SECTION 34.** 108.05 (3) (d) of the statutes is created to read:

15           108.05 (3) (d) A claimant is ineligible to receive benefits for any week in which  
16 the claimant conceals wages as provided in s. 108.04 (11) (b).

17           **SECTION 35.** 108.066 (3) (d) of the statutes is amended to read:

18           108.066 (3) (d) The employer is not delinquent, at the time of designation, in  
19 making any contribution report or payment required under this chapter.

20           **SECTION 36.** 108.067 (1) of the statutes is amended to read:

21           108.067 (1) Each professional employer organization that enters into an  
22 employee leasing agreement with a client during any calendar quarter shall submit  
23 to the department, no later than the due date for the report payment of contributions  
24 under s. 108.17 (2) relating to that quarter, in the form prescribed by the department,

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1 a report disclosing the identity of that client and other information as the  
2 department prescribes.

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3 SECTION 37. 108.151 (7) (e) of the statutes is amended to read:

4 108.151 (7) (e) Except as provided in paragraph (b), the rate of each employer's  
5 assessment under this subsection for any calendar year is the product of the rate  
6 determined under par. (d) multiplied by the employer's payroll for the preceding  
7 calendar year, as reported by the employer under sub. (8) or s. 108.15 (8), 108.152 (7),  
8 or 108.17 (2), 108.205 (1) or, in the absence of reports, as estimated by the department.

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9 SECTION 38. 108.151 (7) (h) of the statutes is amended to read:

10 108.151 (7) (h) If the payroll of an employer for any quarter is adjusted to  
11 decrease the amount of the payroll after a contribution report for the employer is filed  
12 pays contributions on that payroll under s. 108.17 (2), the department shall refund  
13 any assessment that is overpaid by the employer under this subsection as a result  
14 of the adjustment.

15 SECTION 39. 108.16 (6) (f) of the statutes is amended to read:

16 108.16 (6) (f) Any amount available for such crediting under s. 108.04 (11) (b)  
17 (be), 108.14 (8n) (e) or 108.141.

18 SECTION 40. 108.16 (8) (b) 4. of the statutes is amended to read:

19 108.16 (8) (b) 4. The department has received a written application from the  
20 transferee requesting that it be deemed a successor. Such application must be  
21 received by the department on or before the contribution report and payment due  
22 date for the first full quarter following the date of transfer.

23 SECTION 41. 108.17 (2) of the statutes is amended to read:

24 108.17 (2) (a) Every The department shall provide written or electronic notice to  
25 each employer that is subject to a contribution requirement of the amount of

renumbered 108.17(2)(a) and

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1 contributions due for payment under s. 108.18 no later than the 15th day following  
 2 the end of each calendar quarter. Each employer that is subject to a contribution  
 3 requirement shall file quarterly reports of contributions required under this chapter  
 4 with the department, and pay contributions to the department, in the amount  
 5 specified in the notice in such manner as the department prescribes. Each  
 6 contribution report and payment is due at the close of the month next following the  
 7 end of the applicable calendar quarter, except as authorized in sub. (2c) or as the  
 8 department may assign a later due date pursuant to sub. (1m) or general department  
 9 rules.

SECTION 42. 108.17 (2b) of the statutes is amended to read:

11 108.17 (2b) The department shall prescribe a form and methodology for filing  
 12 contribution reports under sub. (2) electronically using the Internet. Each employer  
 13 of 50 <sup>25</sup> or more employees, as determined under s. 108.22 (1) (ae) 108.205 (4), that  
 14 ~~does not use an employer agent to file its contribution reports under this section~~ shall  
 15 file its contribution reports electronically using the Internet on the form prescribed  
 16 by the department. ~~Each employer that becomes subject to the reporting~~  
 17 ~~requirements under this section after June 30, 2008, shall file its contribution~~ <sup>an</sup>  
 18 ~~reports electronically using the Internet on a form prescribed by the department.~~  
 19 Once an employer becomes subject to <sup>as</sup> the reporting requirements under this  
 20 subsection, it shall continue to file its reports under this subsection unless that  
 21 requirement is waived by the department.

SECTION 43. 108.17 (2b) of the statutes, as affected by 2007 Wisconsin Act ...

(this act), section 42, is amended to read:

24 108.17 (2b) The department shall prescribe a form and methodology for filing  
 25 contribution reports under sub. (2) electronically using the Internet. Each employer

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and that becomes subject to a reporting requirement under this section before July 1, 2008, sub. (2)

13, 16, 17 circled

Each

employer agent to file its contribution reports

as strike requirement

1 of 10 4 or more employees, as determined under s. 108.205 (4), that does not use an  
 2 employer agent to file its contribution reports under this section shall file its  
 3 contribution reports electronically using the Internet on the form prescribed by the  
 4 department. Each employer that becomes subject to the reporting requirements  
 5 under this section after June 30, 2008, shall file its contribution reports  
 6 electronically using the Internet on a form prescribed by the department. Once an  
 7 employer becomes subject to the reporting requirements under this subsection, it  
 8 shall continue to file its reports under this subsection unless that requirement is  
 9 waived by the department.

10 **SECTION 44.** 108.17 (2b) of the statutes, as affected by 2007 Wisconsin Act ...  
 11 (this act), section 43, is repealed.

12 **SECTION 45.** 108.17 (2g) of the statutes is amended to read:

13 108.17 (2g) An employer agent that <sup>pays contributions</sup> prepares reports under sub. (2) on behalf  
 14 of less than ~~25~~ 10 employers shall file <sup>contribution</sup> those reports electronically using the Internet  
 15 on the form prescribed by the department under sub. (2b). An employer agent that  
 16 <sup>strike</sup> prepares reports under sub. (2) on behalf of ~~25~~ 10 or more employers shall file those  
 17 reports using an electronic medium and format approved by the department. <sup>pay contributions</sup> An  
 18 <sup>except as authorized in sub. (2), an</sup> employer agent that becomes subject to <sup>a</sup> the reporting requirement under <sup>JTB</sup> this  
 19 <sup>STB</sup> subsection shall file its initial reports under this subsection for the 4th quarter  
 20 beginning after the quarter in which the employer agent becomes subject to the  
 21 reporting requirement. <sup>except as authorized in sub. (2), once</sup> Once an employer agent becomes subject to the reporting  
 22 requirement under this subsection, the employer agent shall continue to file its  
 23 reports under this subsection unless that requirement is waived by the department.

24 **SECTION 46.** 108.17 (2g) of the statutes, as affected by 2007 Wisconsin Act  
 25 ...(this act), section 45, is amended to read:

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1 108.17 (2g) An employer agent that <sup>pays contributions</sup> prepares reports under sub. (2) on behalf  
 2 of less than 10 <sup>4</sup> employers shall file <sup>those</sup> reports electronically using the Internet  
 3 on the form prescribed by the department under sub. (2b). An employer agent that  
 4 ~~prepares reports~~ <sup>pays contributions</sup> under sub. (2) on behalf of 10 <sup>4</sup> or more employers shall file those  
 5 reports using an electronic medium and format approved by the department. ~~An~~  
 6 <sup>except as authorized in 26.02, any a</sup> employer agent that becomes subject to the reporting requirement under this  
 7 subsection shall file its initial reports under this subsection for the 4th quarter  
 8 beginning after the quarter in which the employer agent becomes subject to the  
 9 reporting requirement. <sup>except as authorized in sub. (2), once a</sup> Once an employer agent becomes subject to the reporting  
 10 requirement under this subsection, the employer agent shall continue to file its  
 11 reports under this subsection unless that requirement is waived by the department.

12 **SECTION 47.** 108.17 (2g) of the statutes, as affected by 2007 Wisconsin Act ...  
 13 (this act), section 46, is repealed. ✓

14 **SECTION 48.** 108.17 (5) of the statutes is renumbered 108.205 (3) and amended  
 15 to read:

16 108.205 (3) Upon application of an employer, the department may permit  
 17 employers ~~which~~ that are component members of a controlled group of corporations  
 18 under 26 USC 1563 to combine wages of a single employee for purposes of  
 19 determining the employers' payroll under s. 108.02 (21) (b) if the employee is subject  
 20 to transfer between the employers under the terms of a single collective bargaining  
 21 agreement. The application shall specify the calendar year in which the combination  
 22 is proposed to occur. This subsection does not apply to any employer for which the  
 23 department has written off overdrafts under s. 108.16 (7) (c) within the 2 calendar  
 24 years preceding the year in which the combination is proposed to occur, nor to any  
 25 employer whose account is overdrawn by 6% or more on the computation date for the ✓

1 calendar year preceding the year in which the combination is proposed to occur. If  
 2 the department approves the application, the department shall specify the calendar  
 3 year in which the combination is effective and the method by which the component  
 4 members will report the payroll of the employee to the department under this  
 5 section.

6 SECTION 49. 108.17 (7) of the statutes is created to read:

7 108.17 (7) (a) In this subsection, "electronic funds transfer" means any transfer  
 8 of moneys initiated through a telephone, terminal, or computer that authorizes a  
 9 financial institution to debit an account and transfer the moneys debited to another  
 10 account.

11 (b) Each employer whose net total contributions under this section for any year  
 12 are at least \$10,000 shall ~~make~~ <sup>pay</sup> all contributions under this section by means of  
 13 electronic funds transfer.

14 (c) Each employer agent shall ~~make~~ <sup>pay</sup> all contributions under this section on  
 15 behalf of each employer that is represented by the agent by means of electronic funds  
 16 transfer.

17 SECTION 50. 108.18 (8) of the statutes is amended to read:

18 108.18 (8) SOLVENCY CONTRIBUTIONS. Each employer's solvency contribution for  
 19 each ~~period of a~~ calendar year quarter of any year shall be figured by applying the  
 20 solvency rate determined for that year under sub. (9) to the employer's payroll for  
 21 that ~~period~~ quarter, and shall be payable to the fund's balancing account by the  
 22 ~~due date of its contribution report~~ due date for payment of contributions by the  
 23 employer for that quarter.

24 SECTION 51. 108.19 (1e) (a) of the statutes is amended to read:

1           108.19 (1e) (a) Except as provided in par. (b), each employer, other than an  
2 employer that finances benefits by reimbursement in lieu of contributions under s.  
3 108.15, 108.151, or 108.152 shall, in addition to other contributions payable under  
4 s. 108.18 and this section, pay an assessment to the administrative account for each  
5 year prior to the year 2008 2012 equal to the lesser of 0.01% of its payroll for that year  
6 or the solvency contribution that would otherwise be payable by the employer under  
7 s. 108.18 (9) for that year.

8           **SECTION 52.** 108.19 (1m) of the statutes is amended to read:

9           108.19 (1m) Each employer subject to this chapter as of the date a rate is  
10 established under this subsection shall pay an assessment to the administrative  
11 account at a rate established by the department sufficient to pay interest due on  
12 advances from the federal unemployment account under title XII of the social  
13 security act (42 USC 1321 to 1324). The rate established by the department for  
14 employers who finance benefits under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall  
15 be 75% of the rate established for other employers. The amount of any employer's  
16 assessment shall be the product of the rate established for that employer multiplied  
17 by the employer's payroll of the previous calendar year as taken from quarterly  
18 contribution wage and employment reports filed by the employer under s. 108.205  
19 (1) or, in the absence of the filing of such reports, estimates made by the department.  
20 Each assessment made under this subsection is due on the 30th day commencing  
21 after the date on which notice of the assessment is mailed by the department. If the  
22 amounts collected under this subsection are in excess of the amounts needed to pay  
23 interest due, the amounts shall be retained in the administrative account and  
24 utilized for the purposes specified in s. 108.20 (2m).

25           **SECTION 53.** 108.20 (3) of the statutes is amended to read:

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

5           **SECTION 54.** 108.20 (3) of the statutes, as affected by 2007 Wisconsin Act ...  
 6 (this act), 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), ~~(ae)~~, ~~(ad)~~, and (af) 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 55.** 108.205 (2) of the statutes is amended to read:

12           108.205 (2) All employers of 50 <sup>25</sup> ~~10~~ or more employees, as determined under s.  
 13 108.22 (1) (ae), sub. (4), that do not use an employer agent to file their reports under  
 14 this section and that become subject to the reporting requirement under this section  
 15 before July 1, 2008, shall file the quarterly report under sub. (1) using an electronic  
 16 medium approved by the department for such employers. Each employer that  
 17 becomes subject to the reporting requirement under this section after June 30, 2008,  
 18 shall file the quarterly report under sub. (1) using an electronic medium approved  
 19 by the department. An employer that becomes subject to the reporting requirement  
 20 under this subsection shall file its initial report under this subsection for the 4th  
 21 quarter beginning after the quarter in which the employer becomes subject to the  
 22 reporting requirement. Once an employer becomes subject to the reporting  
 23 requirement under this subsection, the employer shall continue to file its quarterly  
 24 reports under this subsection unless that requirement is waived by the department.

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1       **SECTION 56.** 108.205 (2) of the statutes, as affected by 2007 Wisconsin Act ...  
2 (this act), section 55, is amended to read:

3           108.205 (2) All employers of ~~10~~ 4 or more employees, as determined under sub.  
4 (4), that do not use an employer agent to file their reports under this section and that  
5 become subject to the reporting requirement under this section before July 1, 2008,  
6 shall file the quarterly report under sub. (1) using an electronic medium approved  
7 by the department. Each employer that becomes subject to the reporting  
8 requirement under this subsection after June 30, 2008, shall file the quarterly report  
9 under sub. (1) using an electronic medium approved by the department. An employer  
10 that becomes subject to the reporting requirement under this subsection shall file its  
11 initial report under this section for the 4th quarter beginning after the quarter in  
12 which the employer becomes subject to the reporting requirement. Once an employer  
13 becomes subject to the reporting requirement under this subsection, the employer  
14 shall continue to file its quarterly reports under this subsection unless that  
15 requirement is waived by the department.

16       **SECTION 57.** 108.205 (2) of the statutes, as affected by 2007 Wisconsin Act ...  
17 (this act), section 56, is amended to read:

18           108.205 (2) All employers of 4 or more employees, as determined under sub.  
19 (4), that do not use an employer agent to file their reports under this section and that  
20 become subject to the reporting requirement under this section before July 1, 2008,  
21 Each employer shall file the its quarterly report reports under sub. (1) using an  
22 electronic medium approved by the department. Each employer that becomes subject  
23 to the reporting requirement under this section after June 30, 2008, shall file the  
24 quarterly report under sub. (1) using an electronic medium approved by the  
25 department. An employer that becomes subject to the reporting requirement under

1 this subsection shall file its initial report under this section for the 4th quarter  
2 beginning after the quarter in which the employer becomes subject to the reporting  
3 requirement. Once an employer becomes subject to the reporting requirement under  
4 this subsection, the employer shall continue to file its quarterly reports under this  
5 subsection unless that requirement is waived by the department.

6 **SECTION 58.** 108.205 (4) of the statutes, as affected by 2007 Wisconsin Act ...  
7 (this act), is repealed. ✓

8 **SECTION 59.** 108.22 (1) (a) (intro.) of the statutes is renumbered 108.22 (1) (a)  
9 and amended to read:

10 108.22 (1) (a) If any employer, other than an employer which has ceased  
11 business and has not paid or incurred a liability to pay wages in any quarter  
12 following the cessation of business, is delinquent in making by the assigned due date  
13 any contribution report, or other report or payment to the department required of it  
14 under this chapter except a quarterly report under s. 108.205 or a voluntary  
15 contribution, the employer shall pay interest on any delinquent payment at the rate  
16 of one percent per month or fraction thereof from the date such payment became due.  
17 If any such employer is delinquent in making any quarterly report under s. 108.205  
18 by the assigned due date, the employer shall pay a tardy filing fee of \$50 for each  
19 delinquent quarterly report as follows:

20 **SECTION 60.** 108.22 (1) (a) of the statutes, as affected by 2007 Wisconsin Act ...  
21 (this act), sections 59 and 61, is amended to read:

22 108.22 (1) (a) If any employer, other than an employer which has ceased  
23 business and has not paid or incurred a liability to pay wages in any quarter  
24 following the cessation of business, is delinquent in making by the assigned due date  
25 any contribution report, or other report or payment to the department required of it

1 under this chapter except a quarterly report under s. 108.205 or a voluntary  
2 contribution, the employer shall pay interest on any delinquent payment at the rate  
3 of one percent per month or fraction thereof from the date such payment became due.  
4 If any such employer is delinquent in making any quarterly report under s. 108.205  
5 by the assigned due date, the employer shall pay a tardy filing fee of \$50 for each  
6 delinquent quarterly report.

7 SECTION 61. 108.22 (1) (a) 1. and 2. of the statutes are repealed.

8 SECTION 62. 108.22 (1) (ac) of the statutes is renumbered 108.22 (1) (ac) 1. and  
9 amended to read:

10 108.22 (1) (ac) 1. ~~In~~ Except as provided in subd. 2., in addition to any fee  
11 assessed under par. (a), the department may assess an employer or employer agent  
12 that is subject to the reporting requirement under s. 108.205 (2) and that fails to file  
13 its report in a format prescribed under that subsection a penalty of \$10 for each  
14 employee whose information is not reported in a format prescribed under s. 108.205  
15 (1m) (b) or (2).

16 SECTION 63. 108.22 (1) (ac) of the statutes, as affected by 2007 Wisconsin Act  
17 .... (this act), sections 62 and 65 is repealed.

18 SECTION 64. 108.22 (1) (ac) 2. of the statutes is created to read:

19 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department  
20 may assess any employer of ~~10~~<sup>25</sup> or more employees, any employer that becomes  
21 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,  
22 2008, or any employer agent that fails to file its report in a format prescribed under  
23 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of \$15 for each employee  
24 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)  
25 or 108.205 (1m) (b) or (2).

1 SECTION 65. 108.22 (1) (ac) 2. of the statutes, as created by 2007 Wisconsin Act  
2 ... (this act), is amended to read:

3 108.22 (1) (ac) 2. In addition to any fee assessed under par. (a), the department  
4 may assess any employer of ~~10~~ <sup>10 or more</sup> employees, any employer that becomes  
5 subject to a reporting requirement under s. 108.17 (2) or 108.205 (2) after June 30,  
6 2008, or any employer agent that fails to file its report in a format prescribed under  
7 s. 108.17 (2b) or (2g) or 108.205 (1m) (b) or (2) a penalty of \$15 ~~\$20~~ for each employee  
8 whose information is not reported in a format prescribed under s. 108.17 (2b) or (2g)  
9 or 108.205 (1m) (b) or (2).

10 SECTION 66. 108.22 (1) (ad) of the statutes is repealed. ✓

11 SECTION 67. 108.22 (1) (ae) of the statutes is ~~renumbered 108.205 (4) and~~  
12 amended to read:

13 ~~108.205 (4)~~ <sup>108.22 (1) (ae)</sup> For purposes of par. (a) ~~sub (2)~~ <sup>PLAIN</sup>, the number of employees employed  
14 by an employer is the total number of employees employed by the employer at any  
15 time during the reporting period.

16 SECTION 68. 108.22 (1) (af) of the statutes is created to read:

17 108.22 (1) (af) In addition to the fee assessed under par. (a), the department  
18 may assess an employer or employer agent that is subject to a requirement to make  
19 contributions by means of an electronic funds transfer under s. 108.17 (7) and that  
20 pays contributions by any method inconsistent with s. 108.17 (7) a penalty of the  
21 greater of \$50 or an amount equal to one-half of one percent of the total contributions  
22 paid by the employer or employer agent for the quarter in which the violation occurs.

23 SECTION 69. 108.22 (1) (am) of the statutes is amended to read:

1           108.22 (1) (am) The interest, penalties, and tardy filing fees levied under pars.  
2           (a), (ac), ~~and (ad)~~, and (af) shall be paid to the department and credited to the  
3           administrative account.

4           **SECTION 70.** 108.22 (1) (am) of the statutes, as affected by 2007 Wisconsin Act  
5           .... (this act), is amended to read:

6           108.22 (1) (am) The interest, penalties, and tardy filing fees levied under pars.  
7           (a), ~~(ac)~~, ~~(ad)~~, and (af) shall be paid to the department and credited to the  
8           administrative account. ✓

9           **SECTION 71.** 108.22 (1) (c) of the statutes is amended to read:

10           108.22 (1) (c) Any report or payment, except a payment required by s. 108.15  
11           (5) (b) or 108.151 (5) (f) or (7), to which this subsection applies is delinquent, within  
12           the meaning of par. (a), unless it is received by the department, in the form prescribed  
13           by law or rule of the department, no later than its due date as determined under par.  
14           (b), ~~or if mailed is either postmarked no later than that due date or is received by the~~  
15           ~~department no later than 3 days after that due date.~~ Any payment required by s.  
16           108.15 (5) (b) or 108.151 (5) (f) or (7) is delinquent, within the meaning of par. (a),  
17           unless it is received by the department, in the form prescribed by law, no later than  
18           the last day of the month in which it is due.

19           **SECTION 72.** 108.22 (9) of the statutes is amended to read:

20           108.22 (9) An individual who is an officer, employee, member or manager  
21           holding at least 20% of the ownership interest of a corporation or of a limited liability  
22           company subject to this chapter, and who has control or supervision of or  
23           responsibility for ~~filing contribution reports or making payment of contributions,~~  
24           and who willfully fails to ~~file such reports or to make such payments to the~~  
25           department, or to ensure ~~that such reports are filed or that such payments are made,~~

1 may be found personally liable for such amounts, including interest, tardy payment  
2 or filing fees, costs and other fees, in the event that after proper proceedings for the  
3 collection of such amounts, as provided in this chapter, the corporation or limited  
4 liability company is unable to pay such amounts to the department. Ownership  
5 interest of a corporation or limited liability company includes ownership or control,  
6 directly or indirectly, by legally enforceable means or otherwise, by the individual,  
7 by the individual's spouse or child, by the individual's parent if the individual is  
8 under age 18, or by a combination of 2 or more of them, and such ownership interest  
9 of a parent corporation or limited liability company of which the corporation or  
10 limited liability company unable to pay such amounts is a wholly owned subsidiary.  
11 The personal liability of such officer, employee, member or manager as provided in  
12 this subsection survives dissolution, reorganization, bankruptcy, receivership,  
13 assignment for the benefit of creditors, judicially confirmed extension or  
14 composition, or any analogous situation of the corporation or limited liability  
15 company and shall be set forth in a determination or decision issued under s. 108.10.

16 **SECTION 73. Initial applicability.**

17 (1) The treatment of section 108.02 (12) (bm) (intro.) and 1. of the statutes first  
18 applies with respect to employment after December 31, 2007.

19 (2) The treatment of sections 108.02 (15s) and (20m), 108.04 (7) (k) and (o), and  
20 108.05 (3) (b) 1. a. and b. and (c) of the statutes, as they pertain to payment of benefit  
21 claims, and the treatment of section 108.05 (3) (b) 1. c. of the statutes, as it pertains  
22 to the treatment of wages and pay, first apply with respect to weeks of unemployment  
23 beginning on the effective date of this subsection.

24 (3) The treatment of sections 108.02 (15s) and (20m), 108.04 (7) (k) and (o), and  
25 108.05 (3) (b) 1. a. to c. and (c) of the statutes, as they pertain to adjudication of benefit

*the renumbering and amendment of section 108.17(2) of the statutes, and the creation of section 108.17(2)(b) of the statutes first apply*

1 claims, first applies with respect to determinations issued under section 108.09 of the  
2 statutes on the effective date of this subsection or, with respect to determinations  
3 that are appealed, to decisions issued under section 108.09 of the statutes on the  
4 effective date of this subsection. *stat: keep as typed*

5 (4) The treatment of sections ~~108.02 (2) (b), 108.066 (3) (d), 108.067 (1),~~  
6 108.151 (7) (e) and (h), 108.16 (8) (b) 4., ~~108.17 (2) and (5),~~ 108.18 (8), 108.19 (1m),  
7 108.20 (3) (by SECTION 54), and 108.22 (1) (ad), and (am) (by SECTION 70) and (9) of  
8 the statutes, ~~the amendment of section 108.22 (1) (a) of the statutes, and the repeal~~  
9 ~~of sections 108.17 (2b) and (2g), 108.205 (4), and 108.22 (1) (a) of the statutes first~~  
10 ~~apply with respect to contributions payable for the 3rd quarter of 2010.~~ *2008*

11 (5) The treatment of section 108.04 (16) (a) (intro.) and (c) 1. of the statutes, the  
12 renumbering and amendment of section 108.04 (1) (a) of the statutes, and the  
13 creation of section 108.04 (1) (a) 1. and 2. of the statutes and, with respect to the  
14 reference to section 108.04 (1) (a) of the statutes, as affected by this act, the treatment  
15 of section 108.04 (16) (b) and (c) 2. of the statutes and, with respect to the reference  
16 to section 108.04 (1) (bm) of the statutes, as affected by this act, the treatment of  
17 section 108.05 (3) (a) and (b) 1. c. of the statutes first apply with respect to weeks of  
18 unemployment beginning on the effective date of this subsection.

19 (6) The treatment of sections 108.04 (1) (b) and (c) of the statutes and, with  
20 respect to the reference to section 108.04 (1) (b) of the statutes, as affected by this act,  
21 the treatment of section 108.04 (16) (b) and (c) 2. of the statutes first apply with  
22 respect to terminations of employment occurring and suspensions of employment  
23 and leaves of absence beginning on the effective date of this subsection.

1 (7) The treatment of sections 108.02 (15m) (a) and 108.04 (1) (g) 1. and 2. and  
2 (gm) 4. c. of the statutes first applies with respect to benefit years that begin on the  
3 effective date of this subsection.

↑ the renumbering and amendment of section 108.04 (1)(c) of the statutes, and (g)

4 (8) The treatment of sections 108.04 (11) (a), (b), (be), (bm), (c), (cm), and (f),  
5 108.05 (3) (d), and 108.16 (6) (f) of the statutes and, with respect to the reference to  
6 section 108.05 (3) (d) of the statutes, as created by this act, the treatment of section  
7 108.05 (3) (a) of the statutes first apply with respect to determinations issued under  
8 section 108.09 of the statutes on the effective date of this subsection or, with respect  
9 to determinations that are appealed, to decisions issued under section 108.09 of the  
10 statutes on the effective date of this subsection.

↑ and the creation of section 108.04 (1)(c) 1. to 3. of the statutes,

↑ the renumbering and amendment of section 108.17 (2) of the statutes,

11 (9) The treatment of sections 108.17 (2b) (by SECTION 42) and (2g) (by SECTION  
12 45), 108.205 (2) (by SECTION 55), and 108.22 (1) (ae) of the statutes first applies with  
13 respect to reports required to be filed for the 3rd quarter of 2008.

JNS  
32-10

14 (10) The treatment of sections 108.17 (2b) (by SECTION 43) and (2g) (by SECTION  
15 46) and 108.205 (2) (by SECTION 56) of the statutes first applies with respect to  
16 reports required to be filed for the 3rd quarter of 2009.

32-11

17 (11) The treatment of sections 108.17 (7), 108.20 (3) (by SECTION 53), and 108.22  
18 (1) (am) (by SECTION 69), (af), and (c) of the statutes first applies with respect to  
19 contributions payable during the first quarter of 2009.

(af) and

20 (12) The treatment of section 108.205 (2) (by SECTION 57) of the statutes first  
21 applies with respect to reports required to be filed for the 3rd quarter of 2010.

22 (13) The treatment of section 108.22 (1) (c) of the statutes, the  
23 statutes and the repeal of section 108.22 (1) (a) 1. and 2. of the statutes first apply  
24 with respect to reports required to be filed for the 3rd quarter of 2008.

↑ treatment of section 108.22 (1) (c) of the statutes, the





DOA:.....Harshner, BB0354 - Funding of employment service from UI Reed Act moneys

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

JNS 5B

The bill appropriates \$1,000,000 in fiscal year 2007-08 and \$1,000,000 in fiscal year 2008-09 from federal revenue for this purpose. The use of this money =

1 AN ACT ...; relating to: financing of the state employment service and making  
2 an appropriation.

**Analysis by the Legislative Reference Bureau**

⑦ subsub → Employment assistance **EMPLOYMENT**

Currently, DWD operates an employment service that assists unemployed individuals in finding suitable employment. This program is funded with federal revenue.

This bill permits this program to be funded, in addition, from the unemployment reserve fund, which is used to pay unemployment insurance benefits.

The change potentially increases the liability of employers to finance those benefits through contributions (taxes). UI

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

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

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

2001

FWS 6-1

LRB -3070, P4

File With Statute **20.005 (3)** Schedule

JTK : \_\_\_\_\_ : \_\_\_\_\_

**\$\$\$ SCHEDULE**

In the component bar:

For the action phrase, execute: ..... create → action: → ch20

For the table layout, execute: ..... create → <Table> → \$sched

**SECTION #.** 20.005 (3) (schedule) of the statutes: at the appropriate place,

insert the following amounts for the purposes indicated:

2007-08      2008-09  
2001-02      2002-03

20. 445 Workforce development,  
department of  
.....

( 1 ) WORKFORCE DEVELOPMENT  
.....

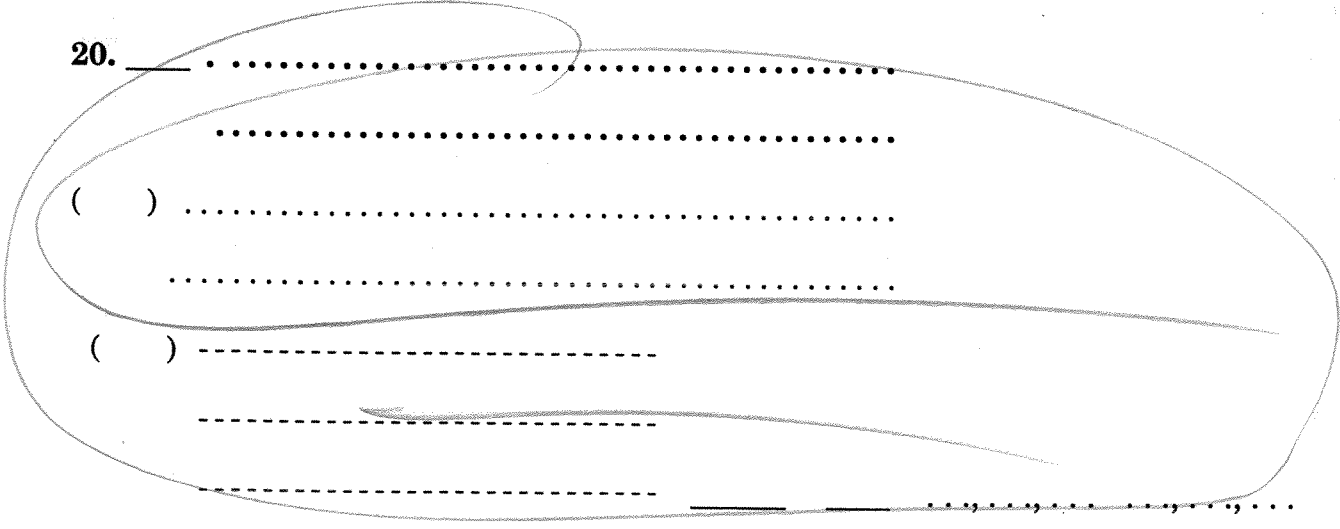
(nd) Employment services  
.....  
.....

PR-F 1,000,000 1,000,000  
A

20. \_\_\_\_\_  
.....

( ) \_\_\_\_\_  
.....

( ) \_\_\_\_\_  
.....  
.....



④  
⑧

SENATOR AM, 20.445 (1) (nd)

1 20.445 (1) (nd) *Unemployment administration; apprenticeship* Employment  
2 services. From the moneys received from the federal government under section 903  
3 (d) of the federal Social Security Act, as amended, the amounts in the schedule, as  
4 authorized by the governor under s. 16.54, to be used for administration by the  
5 department of apprenticeship programs under subch. I of ch. 106 and for  
6 administration and service delivery of employment and workforce information  
7 services, including the delivery of reemployment assistance services to  
8 unemployment insurance claimants. All moneys transferred from par. (n) for ~~this~~  
9 ~~purpose~~ <sup>these purposes</sup> shall be credited to this appropriation account. No moneys may be expended  
10 from this appropriation unless the treasurer of the unemployment reserve fund  
11 determines that such expenditure is currently needed for the ~~purpose~~ purposes  
12 specified in this paragraph.

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

13

(END)

INS 3B:

no 4

Currently, if an employer aids and abets a claimant in committing an act of concealment, the employer may be required to forfeit an amount equal to the amount of benefits that the claimant improperly received as a result of the concealment.

INS 3A:

no 4

In addition, the bill provides that if an employer aids and abets or attempts to aid and abet a claimant in committing an act of concealment, the employer must forfeit \$500 for a first offense, \$1,000 for a second offense, and \$1,500 for a third or subsequent offense.

INS 5C:

***Admission of departmental records relating to benefit claims***

Currently, with the exception of reports by certain experts, a departmental record relating to a benefit claim that contains uncorroborated heresay and that is offered as evidence before an appeal tribunal (hearing examiner) may require testimony or other authentication to substantiate the information contained in the record before it may be used as evidence that an employer provided or failed to provide complete and correct information to DWD during a fact finding investigation. This bill provides that such a record, if created in the regular course of a fact-finding investigation, constitutes prima facie evidence, and shall be admissible to prove that an employer provided or failed to provide to DWD complete and correct information in a fact-finding investigation of the claim, notwithstanding that the record may contain uncorroborated heresay and may be used as the sole basis upon which the issue of the employer's failure is decided, if the parties appearing at the hearing before the tribunal are given an opportunity to review the record at or before the hearing and to rebut the information contained in the record. Under the bill, such a record requires no authenticating testimony or other evidence for the record to be admitted in evidence, unless the circumstances affirmatively indicate a lack of trustworthiness. If appropriate, the record may then be regarded on appeal as sufficient without further substantiation to sustain the decision of the appeal tribunal.

heresay

INS 9-25:

SECTION 1. 108.04 (4g) (em) of the statutes is created to read:

108.04 (4g) (em) If an employee is not penalized for his or her conduct under this subsection, the employee may nevertheless be subject to a benefit eligibility limitation for the same conduct under sub. (5) if sub. (5) applies to the employee.

SECTION 2. 108.04 (5) of the statutes is amended to read:

108.04 (5) DISCHARGE FOR MISCONDUCT. ~~Unless sub. (5g) applies, an~~ An employee whose work is terminated by an employing unit for misconduct connected with the employee's work is ineligible to receive benefits until 7 weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages after the week in which the discharge occurs equal to at least 14 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance law of any state or the federal government. For purposes of requalification, the employee's weekly benefit rate shall be that rate which would have been paid had the discharge not occurred. The wages paid to an employee by an employer which terminates employment of the employee for misconduct connected with the employee's employment shall be excluded from the employee's base period wages under s. 108.06 (1) for purposes of benefit entitlement. This subsection does not preclude an employee who has employment with an employer other than the employer which terminated the employee for misconduct from establishing a benefit year using the base period wages excluded under this subsection if the employee qualifies to establish a benefit year under s. 108.06 (2) (a). The department shall charge to the fund's balancing account any benefits otherwise chargeable to the account of an employer that is subject to the contribution requirements under ss. 108.17 and 108.18 from which base period wages are excluded under this subsection. If an employee is penalized for his or her conduct

under sub. (4g), the employee is not subject to any benefit limitation under this subsection for the same conduct to which sub. (4g) was applied.

**History:** 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86.

→ (A) Sec. #. RN; 108.04(5g); 108.04(4g) x

INS 11-11:

3. A claimant shall forfeit 5 times the claimant's benefit rate under s. 108.05 (1) for the week in which the claim is made for each single act of concealment occurring after the date of the 2nd determination of concealment under par. (a) or (b).

INS 12-13:

no! In addition, the employing unit shall be penalized as follows:

**SECTION 3.** 108.04 (11) (c) 1. to 3. of the statutes are created to read:

108.04 (11) (c) 1. The employing unit shall forfeit \$500 for each single act of concealment <sup>that</sup> ~~in which~~ the employing unit aids and abets or attempts to aid and abet a claimant <sup>to commit occurring</sup> ~~in committing~~ an act of concealment before the first determination that the employer <sup>so acted</sup> ~~has committed~~ such an act. <sup>the date of</sup>

2. The employer <sup>employing unit</sup> shall forfeit \$1,000 for each single act of concealment ~~in which~~ <sup>that</sup> the employing unit aids and abets or attempts to aid and abet a claimant ~~in~~ <sup>to commit occurring</sup> ~~committing~~ an act of concealment after the date of the first determination that the employer <sup>employing unit so acted</sup> ~~has committed~~ such an act but on or before the date of the 2nd determination that the employer <sup>so acted</sup> ~~has committed~~ such an act.

3. The employing unit shall forfeit \$1,500 for each single act of concealment ~~in~~ <sup>that</sup> which the employing unit aids and abets or attempts to aid and abet a claimant ~~in~~

employing unit

employing unit

~~committing an act of concealment~~ after the date of the 2nd determination that the  
employer has <sup>so acted</sup> committed such an act.

to commit occurring

INS 18-2:

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

108.09 (4o) DEPARTMENTAL RECORDS RELATING TO BENEFIT CLAIMS. In any hearing before an appeal tribunal under this section, a departmental record relating to a claim for benefits, other than a report specified in sub. (4m), constitutes prima facie evidence, and shall be admissible to prove, that an employer provided or failed to provide to the department complete and correct information in a fact-finding investigation of the claim, notwithstanding that the record or a statement contained in the record may be uncorroborated hearsay and may constitute the sole basis upon which issue of the employer's failure is decided, if the parties appearing at the hearing have been given an opportunity to review the record at or before the hearing and to rebut the information contained in the record. A record of the department that is admissible under this subsection shall be regarded as self authenticating and shall require no foundational or other testimony for its admissibility, unless the circumstances affirmatively indicate a lack of trustworthiness in the record. If such a record is admitted and made the basis of a decision, the record may constitute substantial evidence under s. 102.23 (6). For purposes of this subsection, "departmental record" means a memorandum, report, record, document, or data compilation that has been made or maintained by employees of the department in the regular course of the department's fact-finding investigation of a benefit claim, is contained in the department's paper or electronic files of the benefit claim, and



relates to the department's investigative inquiries to an employer or statements or other documents submitted by the employer or its agent in connection with the fact-finding investigation of a benefit claim. "Departmental record" does not include any statement or other document submitted by or obtained from a claimant.

INS 18-17:

SECTION 5. 108.16 (6m) (a) of the statutes is amended to read:

108.16 (6m) (a) The benefits thus chargeable under s. 108.04 (1) (f), (4g), (5), (5g), (7) (h), (8) (a), (13) (c) or (d) or (16) (e), 108.07 (3), (3r), (5) (b), (5m), (6), or (8), 108.14 (8n) (e), 108.141, 108.151, or 108.152 or sub. (6) (e) or (7) (a) and (b).

History: 1971 c. 53; 1973 c. 247; 1975 c. 343; 1977 c. 133; 1979 c. 52; 1979 c. 110 s. 60 (13); 1981 c. 36; 1983 a. 8, 99, 368; 1985 a. 17 ss. 39 to 56, 66; 1985 a. 29; 1987 a. 27; 1987 a. 38 ss. 107 to 111, 134; 1987 a. 255; 1989 a. 56 s. 259; 1989 a. 77, 359; 1991 a. 89, 221; 1993 a. 112, 373, 490, 492; 1995 a. 118, 225; 1997 a. 39; 1999 a. 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86, 253.

INS 19-9:

SECTION 6. 108.17 (2) (b) of the statutes is created to read:

108.17 (2) (b) If an employer that is subject to a contribution requirement files its quarterly wage reports under s. 108.205 (1) using an electronic medium approved by the department, the employer may elect, in lieu of filing reports under par. (a), to request the department to provide electronic notice to the employer of the amount of contributions due for payment under s. 108.18. In such case, the department shall provide the notice no later than the 15th day following the end of each calendar quarter. The employer shall then pay the contributions due for the quarter by the due date in the manner provided in sub. (7).

INS 32-11:

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app

# need  
an autonumber  
here

( ) The treatment of section 108.09 (4o) of the statutes first applies with respect to appeals filed on the effective date of this subsection.

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3070/P4insA  
JTK.....

INS 5A:

*not*

and also provides that if an employer fails to provide complete and correct information requested by DWD during a fact-finding information, then benefits paid before the end of the week in which a redetermination or decision is issued are not affected by a redetermination or decision (notwithstanding any eligibility issue) unless an appeal tribunal, the commission, or a court finds that the employer had good cause for failing to provide the information

*investigation*

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB  
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"Z"  
from p. 20

**INS X**

**SECTION 1. Effective dates.** This act takes effect on the first Sunday after publication, except as follows:

(1) The treatment of section 108.17 (2g) (by SECTION ~~NO TAG~~) of the statutes takes effect on July 1, 2009.

(2) The amendment of section 108.22 (1) (ac) 2. of the statutes takes effect on July 1, 2009.

46 <autorefs>

autorefs

LPS:  
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NEW

HW 32-10

(5) The treatment of section 108.04 (1) (b) 1. and 3. (intro.) and (c) of the statutes first applies with respect to suspensions and terminations of employment occurring on the effective date of this subsection.

(6) The treatment of section 108.04 (1) (e) of the statutes first applies with respect to weeks of unemployment beginning on the effective date of this subsection.

(7) The treatment of section 108.04 (5) and (5g) of the statutes first applies with respect to discharges occurring on the first Sunday that follows the 90th day beginning after the effective date of this subsection.

(8) The treatment of section 108.04 (7) (f) of the statutes first applies with respect to terminations of employment occurring on the effective date of this subsection.

(9) The treatment of section 108.04 (13) (c), (e), and (g) of the statutes first applies with respect to redeterminations issued under section 108.09 of the statutes on the effective date of this subsection or, with respect to matters in which no redetermination is issued, with respect to decisions issued under section 108.09 of the statutes on the effective date of this subsection.

(10) The treatment of section 108.04 (16) (b) and (c) 2. of the statutes first applies with respect to determinations issued under section 108.09 of the statutes on the effective date of this subsection or, with respect to determinations that are appealed, to decisions issued under section 108.09 of the statutes on the effective date of this subsection.

(11) The treatment of section 108.05 (3) (a) of the statutes first applies with respect to weeks of unemployment beginning on the effective date of this subsection.

(12) The treatment of section 108.09 (4n) of the statutes first applies with respect to appeals filed on the effective date of this subsection.

(13) The treatment of section 108.105 (2) of the statutes first applies with respect to suspensions resulting from appeal tribunal hearings held on the effective date of this subsection.

(14) The treatment of sections 108.151 (4) (b) and (7), 108.16 (6w) and (6x), 108.22 (1) (b) and (c) and (1m), and 108.225 (1) (a) of the statutes first applies with respect to payrolls for the 2005 calendar year.

(15) The treatment of sections 108.16 (8) (e) 1., (em), (h), (im), (m), and (n), 108.18 (1) (a) and (2) (d), and

108.24 (2) of the statutes first applies with respect to transfers of businesses occurring after December 31, 2005.

(16) The treatment of section 108.17 (2b) of the statutes first applies to employers of 75 or more employees with respect to reports required under section 108.17 (2) of the statutes for the 2nd quarter beginning after the quarter that includes the effective date of this subsection.

(17) The treatment of section 108.17 (2b) of the statutes first applies to employers of 50 to 74 employees with respect to reports required under section 108.17 (2) of the statutes for the 6th quarter beginning after the quarter that includes the effective date of this subsection.

(18) The treatment of section 108.17 (2g) of the statutes first applies with respect to reports filed under section 108.17 (2) of the statutes for the 2nd quarter beginning after the quarter that includes the effective date of this subsection.

(19) The treatment of section 108.205 (1m) of the statutes first applies with respect to reports filed under section 108.205 (1) of the statutes for the 2nd quarter beginning after the quarter that includes the effective date of this subsection.

(20) The treatment of section 108.205 (2) of the statutes first applies to employers of 75 to 99 employees with respect to reports required under section 108.205 (2) of the statutes for the 2nd quarter beginning after the quarter that includes the effective date of this subsection.

(21) The treatment of section 108.205 (2) of the statutes first applies to employers of 50 to 74 employees with respect to reports required under section 108.205 (2) of the statutes for the 6th quarter beginning after the quarter that includes the effective date of this subsection.

(22) The treatment of section 108.22 (2) of the statutes first applies with respect to liabilities existing on the effective date of this subsection.

(23) The treatment of section 108.225 (20) of the statutes first applies with respect to levies served on the effective date of this subsection.

**SECTION 74. Effective date.**

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

Need to add a number here

NON STAT UNIT APP

2005 Assembly Bill 783

Date of enactment: December 28, 2005

Date of publication: January 13, 2006

# 2005 WISCONSIN ACT 87

AN ACT to repeal 452.01 (2) (d), 452.01 (2) (e), 452.01 (2) (f), 452.01 (2) (g), 452.01 (5m) (d) and 452.137; to renumber and amend 452.133 (2) (a); to amend 452.01 (1m), 452.01 (2) (a), 452.01 (2) (b), 452.01 (2) (h), 452.01

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

LRB-3070/P4dn

JTKg:.....

gjs

Dan LaRocque:

1. This draft contains D07-11 (new) and M07-03 (new). It also contains revisions to D07-03, D07-07, D07-08, and D07-10. There are also minor changes that reflect my drafters' notes to previous drafts and your responses to them. *period stays* *the portion of that makes technical revisions*
2. Concerning the proposed appropriation of \$1,000,000 annually in federal revenues from the appropriation under s. 20.445 (1) (nd), *because* the 2007-09 biennial budget bill repeals and recreates the appropriation schedule under section 20.005 (3) of the statutes and that bill has not been enacted as of this writing, if that bill is enacted after the bill resulting from this draft is enacted, and that bill does not include the appropriation contained in this draft, that bill will eliminate the appropriation made in this draft. To ensure that the appropriation is made, you may wish to seek incorporation of the appropriation into the biennial budget bill. *b. Because 2007* *change coming to semi colon*

a. Normally we would credit all federal moneys received to this account even though only a portion of the moneys are appropriated at this point. I assume, however, that in this case the moneys received in federal fiscal years 2000 and 2001 are now completely depleted and the remaining portion of the moneys received in federal fiscal year 2002 will be retained in the U.S. treasury. Please advise if this is not correct.

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

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

LRB-3070/P4dn  
JTK:cjs:rs

October 18, 2007

Dan LaRocque:

1. This draft contains D07-11 (new) and the portion of M07-03 that makes technical revisions (new). It also contains revisions to D07-03, D07-07, D07-08, and D07-10. There are also minor changes that reflect my drafters' notes to previous drafts and your responses to them.

2. Concerning the proposed appropriation of \$1,000,000 annually in federal revenues from the appropriation under s. 20.445 (1) (nd), stats.: a. Normally we would credit all federal moneys received to this account even though only a portion of the moneys are appropriated at this point. I assume, however, that in this case the moneys received in federal fiscal years 2000 and 2001 are now completely depleted and the remaining portion of the moneys received in federal fiscal year 2002 will be retained in the U.S. treasury. Please advise if this is not correct. b. Because the 2007-09 biennial budget bill repeals and recreates the appropriation schedule under section 20.005 (3) of the statutes and that bill has not been enacted as of this writing, if that bill is enacted after the bill resulting from this draft is enacted, and that bill does not include the appropriation contained in this draft, that bill will eliminate the appropriation made in this draft. To ensure that the appropriation is made, you may wish to seek incorporation of the appropriation into the biennial budget bill.

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## Comment on Reed Act Appropriations

### Re: Sections 1, 2 and 3 in LRB draft P/4

Proposed Sections 1 – 4 (below) relate to expenditure authority for and appropriation of Reed Act funds, addressed in Sections 1, 2 and 3 in LRB draft P/4.

Section 1 is new. We are proposing a level of expenditure authority that more accurately reflects what is currently intended. The budget schedule has in the past accumulated amounts of spent and unspent appropriations. We assume the bill's direction to "insert" will result in expenditure authority amounts for each year in the schedule that are consistent with the current appropriation level (\$1M/ann). While we are not certain this Section is necessary, the purpose is simply to avoid confusion as the intent.

In Section 2 we propose to "add" the appropriation amount (\$1,530,200) to existing appropriations in §20.445(1)(nc). We understand the budget bill contains an appropriation for apprenticeship (something like \$1.7M), so that the schedule amount will rise to about \$1.23M. \$1,530,200 correctly reflects the amount the Department sought from the Council in D07-11. We understand that a continuing appropriation for the first year of the biennium can generally be extended to the second year of the biennium on approval of DOA. Based on that understanding, we have placed all of the \$1,530,200 in SFY2007, although the most of it will not be spent until SFY2008.

Section 3: While the appropriations for each year are intended to be annual in that they are limited to use in the respective year, the Council's express intent was that amounts be made available during the *federal* fiscal years 2008 and 2009 (October 1 – September 30). Thus the October 1 beginning dates for each annual appropriation. The appropriation is continuing ("C") because that would seem necessary to assure the authority extends beyond the end of the state fiscal year into the last quarter of the federal fiscal year.

Section 4: we are not sure of the source of your draft language regarding scope in LRB P/3 Section 3; we have narrowed the scope to reemployment services. We have also proposed a time limit that extends beyond the end of the biennium for reasons of flexibility in operating the employment services program. The language reflects the



intent that funds be available during the *calendar* years 2008, and 2009. Please let us know if that presents a problem from the Legislature's standpoint.

Here is our suggested draft of Sections 1 – 4:

**SECTION 1.** 20.005(3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	2007 -08	2008-09
<b>20.445 Workforce development, department of</b>		

(1) WORKFORCE DEVELOPMENT

(nc) Unemployment insurance administration PR-F C	\$1,000,000	\$1,000,000
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**SECTION 2.** 20.005(3) (schedule) of the statutes: at the appropriate place, add the following amounts for the purposes indicated:

	2007 -08	2008-09
<b>20.445 Workforce development, department of</b>		

(1) WORKFORCE DEVELOPMENT

(nd) Employment Services PR-F C	\$1,530,200	<b>Deleted:</b> 000,000 \$1,000,000
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**SECTION 3.** 20.445(1) (nc) of the statutes is amended to read:

20.445 (1) (nc) *Unemployment insurance administration; special federal moneys.*

From the moneys received from the federal government under section 903 of the federal Social Security Act, as amended, for federal fiscal year 2002, beginning on October 1, 2007, \$1,000,000 and beginning on October 1, 2008, \$1,000,000, as authorized by the governor under s. 16.54, to be used for administration of unemployment insurance. No moneys may be encumbered or expended from this appropriation after September 30, 2009.

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**Deleted:** years 2000 and 2001 and the first \$3,289,107 of the moneys received from the federal government under that act for federal fiscal

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**SECTION 4.** 20.445(1) (nd) of the statutes is amended to read:

20.445 (1) (nd) *Unemployment administration; apprenticeship; employment services.*

From the moneys received from the federal government under section 903 (d) of the

federal Social Security Act, as amended, the amounts in the schedule, as authorized by the governor under s. 16.54, to be used for administration by the department of apprenticeship programs under subch. I of ch. 106 and \$1,530,200 beginning on January 1, 2008 until December 31, 2009 for reemployment assistance services to unemployment insurance claimants. All moneys transferred from par. (n) for these purposes shall be credited to this appropriation account. No moneys may be expended from this appropriation unless the treasurer of the unemployment reserve fund determines that such expenditure is currently needed for the purposes specified in this paragraph.

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## Department comment to LRB re LRB 3070- /P4

**Note:** This responds to LRB P4 section-by-section. The section numbers from P3 are identified for reference, e.g., section 1 is P3:1. If the LRB changed the language in P4 from P3, that has been noted. If P4 has a new section that was not included on P3, that is noted. The proposal numbers also are noted for reference.

**Section 1.** See separate comment on Reed Act appropriations.

**Section 2.** See separate comment on Reed Act appropriations.

**Section 3.** See separate comment on Reed Act appropriations.

✓ **Section 4.** P3:2. This will be fine if the department's proposal is approved. [D07-09]

✓ **Section 5.** P3:3. This will be fine if the department's proposal is approved. [D07-09]

✓ **Section 6.** P3:4. Delete. This section will not be changing. If the UIAC approves the change to benefits for family members, it is only not to reduce benefits for parents not to change the definition of a family corporation. [M07-02]

✓ **Section 7.** P3:5. This section will be fine if either D07-02 or D07-02A is approved. [D07-02/D07-02A]

✓ **Section 8.** P3:6. This section will be fine if either D07-02 or D07-02A is approved. [D07-02/D07-02A]

Note: P3:7 was deleted. We thought it was ok. This is renumbering 108.17(5) to 108.205(3). What was the reason for the renumbering and then choosing not to do the renumbering? [D07-07] *RN*

✓ **Section 9.** P3:8. This section is ok. [D07-01]

✓ **Section 10.** P3:9. This section is ok. [D07-01]

✓ **Section 11.** P3:10. This section is ok. [D07-01]

✓ **Section 12.** P3:11. This section is ok. [D07-01]

✓ **Section 13.** P3:12. This section will be fine if approved. [M07-02]

**Section 14.** P3:13. Delete. The intent is not to change who may be involved in a sale, only the fact that parents' benefits will not be reduced. [M07-02]

**Section 15.** New. [M07-03] Language to clarify (5g). Is the last phrase redundant? ("if sub. (5) applies to the employee.") We suggest the following language:

"108.04(4g)(em) If an employee is not penalized for his or her conduct under this subsection, the employee may nevertheless be subject to the benefit ineligibility and exclusion of wages under sub. (5) for the same conduct." — benefit limitation?

**Section 16.** New. [M07-03] Language to clarify (5g). We think we should limit this language to avoid confusion regarding whether the conduct is identical. We suggest the following language:

"... If an employee is penalized for his or her conduct under (4g), the employee is not subject to any benefit ineligibility or exclusion of wages under this subsection." benefit limitation?

**Section 17.** New. [M07-03] Do we still need to renumber (5g) if the cases are resolved and the language is clarified? After rethinking this, we prefer to keep it (5g). OK

✓ **Section 18.** P3:14. As per prior discussion, this section should not reference any number of hours. [D07-02/D07-02A] The language is changed consistent with what we had suggested.

✓ **Section 19.** P3:15. This section will be fine if either D07-02 or D07-02A is approved. [D07-02/D07-02A]

✓ **Section 20.** P3:16. This section will be fine if either D07-03 or D07-03A is approved. [D07-03/D07-03A] The language is changed slightly but the intent is the same.

✓ **Section 21.** P3:17. This section will be fine if either D07-03 or D07-03A is approved. [D07-03/D07-03A]

**Section 22.** P3:18. As previously discussed, note that the penalty for subs. 108.04(11)(be)3. has changed to 5 times the weekly benefit rate (rather than ineligible for 6 years) and should be changed if D07-03A is approved. [D07-03/D07-03AA] The language is changed with the proper penalties, but the language for the second and third penalties for claimants has been changed significantly. We need to have our proposed language in order to implement the intent. Note that there can be more than one determination made at each level, e.g., two determinations may be made for conduct occurring before the first determination under par. 1. or 2.

✓ **Section 23.** P3:19. This section will be fine if approved. [D07-03/D07-03A]

**Section 24.** P3:20. This section will be fine if approved. [D07-03/ D07-03A] The language is changed, but the intent seems to be the same. Note that the

section is (11), not (4). Reference to the administrative account is now in Section 27.

**Section 25.** New. [D07-03A] This adds the language for the employer penalties. Also, the language for the second and third violations has been changed. We need our proposed language to implement the intent. Like the claimant fraud penalties, there can be more than one determination made at each level for conduct occurring prior to the first determination at that level.

✓ **Section 26.** P3:21. This section will be fine if approved. [D07-03/ D07-03A]

**Section 27.** P3:22. [D07-03/ D07-03A] This adds the language removed from (c) into a new (f) that the amounts are credited to the administrative account. However, note that this should only apply to the administrative assessments collected under (cm) and not to benefit overpayments. Benefit overpayments must be paid to the balancing account. We suggest the following language:

"108.04(11)(f) All amounts forfeited under par. (c) and all administrative assessments assessed under par. (cm) shall be credited to the administrative account."

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✓ **Section 28.** P3:23. "Charges to the employer's account for" (at lines 12-13 of page 13) were deleted as we suggested. [D07-08B] *done in /py*

✓ **Section 29.** P3:24. This section is ok. [D07-08B]

✓ **Section 30.** P3:25. This section is ok. [D07-08B]

✓ **Section 31.** P3:26. This section is ok. [D07-08B]

**Section 32.** P3:27. Note that the references to the subsections where benefits are reduced or denied should be corrected to avoid an overbroad interpretation. [D07-01] We suggest the following language:

108.04(16)(a)(intro.) of the statutes is amended to read:

108.04(16)(a)(intro.) The department shall not reduce benefits under sub. (1)(a)1., or deny benefits under sub. (1)(a)2., (2)(a) or (d) or (8) or s. 108.141(3g) to any otherwise eligible individual for any week as a result of the individual's enrollment in a course of vocational training or basic education which is a prerequisite to such training, provided the department determines that:

**Section 33.** P3:28. [D07-01] See note to Section 32. We suggest the following language:

108.04(16)(b) of the statutes is amended to read:

108.04(16)(b). The department shall not apply any benefit reduction or disqualification under sub (1)(b), (7)(c) or (8)(e) or s. 108.141(3g) that is not the

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result of training or basic education under par. (a) while an individual is enrolled in a course of training or education that meets the standards specified in par. (a).

**Section 34.** P3:29. [D07-01] See note to Section 32. We suggest the following language:

108.04(16)(c)1. of the statutes is amended to read:

108.04(16)(c)1. The department shall not reduce benefits under sub. (1)(a)1. or deny benefits under sub. (1)(a)2., (2)(a) or (d)1. or (8)1. or s. 108.141(3g) to any otherwise eligible individual as a result of the individual's enrollment in such training; and

**Section 35.** P3:30. See note to Section 32. [D07-01] We suggest the following language:

108.04(16)(c)2. of the statutes is amended to read:

108.04(16)(c)2. The department shall not apply any benefit reduction or disqualification under sub. (1)(b)1., (7)(c), or (8)(e) or s. 108.141(3g) that are not the result of the training while the individual is enrolled in the training.

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✓ **Section 36.** P3:31. The reference to 108.04(1)(bm) is ok. The reference to 108.05(3)(d) will be fine if either D07-03 or D07-03A is approved. [D07-01, D07-03/D07-03A]

**Section 37.** P3:32. This section will be fine if either D07-02 or D07-02A is approved. [D07-02/D07-02A] However, the change to (bm) in 108.05(3)(b)1.c. expands the reference to partial benefits for partial weeks of A&A separation issues. We need to keep the reference to (1)(a) and not change it to (bm).

✓ **Section 38.** P3:33. This section will be fine if D07-02 is approved, but should be deleted if D07-02A is approved. [D07-02/D07-02A]

✓ **Section 39.** P3:34. This section seems redundant to Section 21. [D07-03/D07-03A]

**Section 40.** P3:36. This section is ok. Effective date should be 3<sup>rd</sup> quarter of 2008. [D07-07]

**Section 41.** New. [D07-08B] The language has been changed somewhat from our proposed language for the hearsay exception. All is probably okay except perhaps for the replacement of the word "matter" with "documents" in lines 21 and 23. "Matter" -- or perhaps "documents, information or other matter" -- better describes what is "submitted" by the employer in this context.

**Section 42.** P3:37. This section is ok. Effective date should be 3<sup>rd</sup> quarter of 2008. [D07-07]

**Section 43.** P3:38. This section of the statutes deals with reimbursable employers who file contribution reports but do not pay contributions on payroll. [D07-07] We suggest the following language:

108.151(7)(h) of the statutes is amended to read:

108.151(7)(h) If the payroll of an employer for any quarter is adjusted to decrease the amount of the payroll after the wage report for the employer is filed under 108.205(1), the department shall refund any assessment that is overpaid by the employer under this subsection as a result of the adjustment.

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✓ **Section 44.** P3:39. This section will be fine if either D07-03 or D07-03A is approved. [D07-03/D07-03A]

✓ **Section 45.** New. [M07-03] This is not necessary if we do not renumber section (5g).

✓ **Section 46.** P3:40. Effective date should be 3<sup>rd</sup> quarter of 2008. [D07-07]

✓ **Section 47.** P3:41. The language is ok, but sub. (b) should be changed. See note to Section 48. [D07-07]

**Section 48.** P3:41/new. [D07-07] The notification to employers who file on line will be simultaneous with their filing of wage reports. We propose to create the new section 108.17(2)(b) as follows:

108.17(2)(b) An employer or employer agent filing its quarterly wage reports required under s. 108.205 electronically in the manner and form prescribed by the department for purposes of this subsection may have the department compute the amount of contribution due for payment under 108.18 from the quarterly wage reports in lieu of filing a contribution report required under 108.17(2), 108.17(2b), or 108.17(2g).

**Section 49.** P3:42. The approved change is for employers of 25 or more employees. We want to allow flexibility in types of electronic reporting. [D07-07] We suggest the following language:

108.17 (2b) of the statutes is amended to read:

108.17(2b) The department shall prescribe a form and methodology for filing contribution reports under sub. (2) electronically in the manner and form prescribed by the department. Each employer of 25 or more employees, as determined under s. 108.205(4), that does not use an employer agent to file its contribution reports under this section shall file its reports electronically in the manner and form prescribed by the department. Each employer who the department determines is subject to the reporting requirements under this section after June 30, 2008, and who does not use an employer agent to prepare its reports, shall file its contribution reports electronically in the manner and form prescribed by the department beginning with the report for the second quarter of

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2008. Once an employer becomes subject to the reporting requirements under this subsection, it shall continue to file its reports under this subsection unless that requirement is waived by the department.

**Section 50.** P3:45. The language was changed without the benefit of our proposed language. We want to make sure that the type of electronic reporting is done in the manner prescribed by the department. We need to eliminate the sentence referring to when the employer files reports upon becoming subject to the reporting requirement because it is in conflict with when the application is supposed to be. [D07-07] We propose the following language:

108.17(2g) of the statutes is amended to read:

108.17(2g) An employer agent that prepares reports under sub. (2) on behalf of less than 10 employers shall file those reports electronically in the manner and form prescribed by the department under sub. (2b). An employer agent that prepares reports under sub. (2) on behalf of 10 or more employers shall file those reports using an electronic medium and format approved by the department.

Once an employer agent becomes subject to the reporting requirement under this subsection, the employer agent shall continue to file its reports under this subsection unless that requirement is waived by the department.

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**Section 51.** P3:46. This should be deleted; it was not approved. [D07-07]

Note: P3:48 was deleted, but we thought it was ok. The question again is why the renumbering and then eliminating the renumbering of 108.17(5) to 108.205(3)? [D07-07]

**Section 52.** P3:49. The effective date for this change should be January 1, 2009. Sections 108.17(7)(a) and (c) are fine. [D07-07] For subs. (b), we propose the following language:

108.17(7) of the statutes is created to read:

(b) Each employer whose net total contributions paid under this section between July 1 and June 30 of the previous year are at least \$10,000 shall make all contributions under this section by means of electronic funds transfer. Once an employer becomes subject to the electronic payment requirement under this subsection, the employer shall continue to make electronic payments unless that requirement is waived by the department.

**Section 53.** P3:50. Effective date should be 3<sup>rd</sup> quarter of 2008. [D07-07]

**Section 54.** P3:51. Sunset extension should be to 2010. [D07-05]

**Section 55.** P3:52. Effective date should be 3<sup>rd</sup> quarter of 2008. [D07-07]

✓ **Section 56.** P3:53. This section is ok. [D07-07]



**Section 57.** P3:55. We suggest the following language: [D07-07]

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

108.205(2) All employers of 25 or more employees, as determined under sub. (4) that do not use an employer agent to file their reports under this section shall file the quarterly report under sub. (1) electronically in the manner and form prescribed by the department. Each employer that is determined by the department to be subject to the reporting requirements under this section after June 30, 2008, shall file its wage report under this section electronically in the manner and form prescribed by the department beginning with the report for the second quarter 2008. Once an employer becomes subject to the reporting requirement under this subsection, the employer shall continue to file its quarterly reports under this subsection unless that requirement is waived by the department.

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**Section 58.** P3:59/60. Effective date should be 3<sup>rd</sup> quarter of 2008. This section deals with charging interest on delinquent payments, not charging interest based on late reports. The reference to reports should be deleted. [D07-07] We proposed the following language:

108.22(1)(a)(intro.) of the statutes is renumbered 108.22(1)(a) and amended to read:

108.22(1)(a) If any employer, other than an employer which has ceased business and has not paid or incurred a liability to pay wages in any quarter following the cessation of business, is delinquent in making by the assigned due date any payment to the department required of it under this chapter, the employer shall pay interest on any delinquent payment at the rate of one percent per month or fraction thereof from the date such payment became due. If any such employer is delinquent in making any quarterly report under 108.205 by the assigned due date, the employer shall pay a tardy filing fee of \$50 for each delinquent quarterly report.

- Deleted:** contribution report, or other report or
- Deleted:** except a quarterly report under s. 108.205 or a voluntary contribution
- Deleted:** as follows:

**Section 59.** P3:61. This section is ok. [D07-07]

**Section 60.** P3:62. Effective 3<sup>rd</sup> quarter 2008, this section should provide for a \$15 penalty. Effective 3<sup>rd</sup> quarter 2009, this section should provide for a \$20 penalty. This may need to be set up with two sections with the \$15 penalty in 2008 and a new section with the \$20 penalty for 2009. [D07-07] The increase in the penalty applies only to wage reports, and the renumbering and creation of the subsection (ac)2. is broader than intended. We suggest the following language:

108.22(1)(ac) of the statutes is amended to read: (applicable third quarter 2008)

“(ac) In addition to any fee assessed under par. (a), the department may assess an employer or employer agent that is subject to the reporting requirement under s. 108.205 (2) and that fails to file its report in a format prescribed under that

subsection a penalty of \$15 for each employee whose information is not reported in a format prescribed under s. 108.205 (1m) (b) or (2). "

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(new section)

108.22(1)(ac) of the statutes, as created by 2007 Wisconsin Act ... (this act), is amended to read: (applicable third quarter 2009)

"(ac) In addition to any fee assessed under par. (a), the department may assess an employer or employer agent that is subject to the reporting requirement under s. 108.205 (2) and that fails to file its report in a format prescribed under that subsection a penalty of \$20 for each employee whose information is not reported in a format prescribed under s. 108.205 (1m) (b) or (2). "

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Section 61. P3:64. This should be deleted. See note to Section 60. [D07-07]

Section 62. P2:65. This should be deleted. See note to Section 60. [D07-07]

✓ Section 63. P3:67. This section is ok. [D07-07]

✓ Section 64. P3:68. This section is ok. [D07-07]

✓ Section 65. P3:69. This section is ok. [D07-07]

✓ Section 66. P3:71. This section is ok. [D07-07]

Section 67. P3:72. This section is ok. [D07-07]

Section 68. Initial applicability. P3:73.

✓ (1) P3:73(1). This will be fine if the department's proposal is approved. [D07-09]

(2) P3:73(2). If approved, the references to sections 108.04(7)(k) and (o) [quit exceptions] should not be included in this provision that pertains to payment of benefit claims. We do want the calculation of partial benefits tied to weeks of unemployment. The applicability of 108.05(3) (c) should pertain to weeks of weeks of unemployment. There should be only one applicability date for each section to avoid inconsistencies. [D07-02/D07-02A] We suggest the language below:

"The treatment of sections 108.02 (15s) and (20m), and 108.05 (3) (c) of the statutes, as they pertain to payment of benefit claims, and the treatment of section 108.05 (3) (b) 1. c. of the statutes, as it pertains to the treatment of wages and pay, first apply with respect to weeks of unemployment beginning on the effective date of this subsection."

Deleted: 108.04 (7) (k) and (o),

Deleted: (b) 1. a. and b. and

(3) P3:73(3). The references to section 108.05(3)(b)1.a. to c. and (c) [partial benefits] should not be included in this provision that pertains to adjudication of benefits. Can we combine the other sections that should

be applicable with respect to determinations (from (5))? [D07-02/D07-02A] We suggest the language below:

"The treatment of sections and 108.04 (7) (k) and (o), and 108.05 (3) (b) 1. a. to c. and 108.04(16)(a)(intro.) and (c) of the statutes, and the creation of section 108.04(1)(a)1. and 2. of the statutes and, with respect to the reference to section 108.04(1)(a) of the statutes, as affected by this act, the treatment of section 108.04(16)(b) and (c)2. of the statutes, with respect to the reference to section 108.04(1)(bm) of the statutes, as affected by this act, as they pertain to adjudication of benefit claims, first applies with respect to determinations issued under section 108.09 of the statutes on the effective date of this subsection or, with respect to determinations that are appealed, to decisions issued under section 108.09 of the statutes on the effective date of this subsection."

Deleted: 108.02 (15s) and (20m),

Deleted: and (c)

- ✓ (4) New. This section is ok. [D07-07]
- (5) P3:73(5). The change to the A&A provisions should be for an effective date the first Sunday after April 1, 2008, so our systems can change for this. These sections should be applicable with respect to determinations and can be combined into (3). Note that sec. 108.05(3)(b) already has an effective date in (3). [D07-01] *deleted*
- (6) P3:73(6). The change to the A&A provisions should be for an effective date the first Sunday after April 1, 2008, to coincide with DWD 128. [D07-01] We suggest the following language:
- "The treatment of sections 108.04(1)(b) and (c) of the statutes and, with respect to the reference to section 108.04(1)(b) of the statutes, as affected by this act, the treatment of section 108.04(16)(b) and (c)2. of the statutes first apply with respect to determinations issued as of the first Sunday after April 1, 2008."
- (7) P3:73(7). If approved, eliminate reference to 108.02(15m)(a) and 108.04(gm)4.c. These are beyond the proposal. [M07-02]
- (8) P3:73(8). The language has been changed to add applicability dates for penalties. If approved, this effective date for the change to the fraud penalties should be the same as the effective date for the A&A provisions. [D07-03A]
- (9) New. Effective date for changes to 108.04(13)(c). We question the necessity of this section because we do not think this is a change to the intent of the statute. [D07-08B]
- (10) New. Effective date for hearsay exception. [D07-08B]
- ✓ (11) P3:73(9). This section is ok. [D07-07]

(12) New. This should be deleted. It deals with the applicability date for lowering the threshold for agents to 4 which was not approved. [D07-07]

(13) P3:73(11). We would like these sections to apply to payments after December 31, 2008. [D07-07] We suggest the following language change:

"The treatment of sections 108.17(7), 108.20(3), and 108.22(1)(af) and (am) of the statutes first applies with respect to contributions payable after December 31, 2008."

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(14) P3:73(13). [D07-07] This language is ok.

(15) P3:73(14). This language will be changed based on the changes to Sections 60, 61 and 62. [D07-07]

(16) P3:73(15). This language will be deleted based on the changes to Sections 60, 61 and 62. [D07-07]

**Section 69.** Question why the need for separate effective dates if applicability dates are noted? If we need separate effective dates for some sections, do we need exceptions for effective dates for A&A and penalty provisions as well?

- (1) This section should be deleted because Section 51 should be deleted.
- (2) This section should be deleted because Section 62 should be deleted.

**Other notes:** Draft language to repeal 108.02(12)(b).