

State of Wisconsin



2021 Assembly Bill 910

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2021 WISCONSIN ACT 231

AN ACT *to repeal* 16.48 (1) (b), 16.48 (2), 108.02 (26) (c) 9., 108.02 (26) (c) 14., 108.062 (1) (c), 108.062 (2) (b), 108.062 (2) (e), 108.062 (4) (a) 2., 108.062 (19) (a), 108.062 (19) (b), 108.062 (20) and 108.19 (3); *to renumber* 108.04 (7) (h); *to renumber and amend* 16.48 (1) (a) (intro.), 16.48 (1) (a) 1., 2., 3., 4., 5. and 6., 71.93 (8) (b) 1., 108.062 (4) (a) 1. and 108.062 (19) (intro.); *to amend* 16.48 (3), 59.40 (4), 108.02 (2) (c), 108.02 (13) (c) 2. a., 108.02 (13) (k), 108.02 (14), 108.02 (15) (j) 5., 108.02 (15) (k) 5., 108.02 (17m), 108.02 (19), 108.04 (12) (b), 108.04 (16) (d) 1., 108.04 (18) (a), 108.04 (18) (b), 108.062 (2) (a), 108.062 (2) (c), 108.062 (2) (d), 108.062 (2) (h), 108.062 (2) (m), 108.062 (3), 108.062 (3r), 108.062 (4) (b), 108.062 (6) (b), 108.062 (15), 108.065 (1e) (intro.), 108.10 (intro.), 108.13 (4) (a) 2., 108.14 (8n) (a), 108.14 (8n) (e), 108.14 (26), 108.141 (1) (h), 108.141 (3g) (a) 3. b., 108.141 (7) (a), 108.141 (7) (b), 108.145, 108.15 (3) (d), 108.151 (2) (d), 108.151 (7) (c), 108.151 (7) (f), 108.152 (1) (d), 108.155 (2) (a) and (d), 108.16 (6m) (a), 108.16 (6w), 108.16 (6x), 108.16 (9) (a), 108.18 (3) (c), 108.22 (8e), 108.22 (10), 108.223 (2) (b), 108.23, 108.24 (3) (a) 3. a. and 108.24 (3) (a) 4.; and *to create* 16.48 (4), 71.93 (8) (b) 1. d., 108.02 (10e) (c), 108.02 (15) (k) 21., 108.065 (3m), 108.101 (5), 108.151 (7) (i) and 108.16 (6m) (j) of the statutes; **relating to:** various changes to the unemployment insurance law.

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

SECTION 1. 16.48 (1) (a) (intro.) of the statutes is renumbered 16.48 (1) (intro.) and amended to read:

16.48 (1) (intro.) No later than ~~April 15~~ May 31 of each ~~odd-numbered~~ even-numbered year, the secretary of workforce development shall prepare and furnish to the governor, the speaker of the assembly, the minority leader of the assembly, ~~and~~ the majority and minority leaders of the senate, ~~and the council on unemployment insurance~~, a statement of unemployment insurance financial outlook, which shall contain all of the following, together with the secretary's recommendations and an explanation for such recommendations:

SECTION 2. 16.48 (1) (a) 1., 2., 3., 4., 5. and 6. of the statutes are renumbered 16.48 (1) (am), (bm), (c), (d), (e) and (f), and 16.48 (1) (bm), (c) and (f), as renumbered, are amended to read:

16.48 (1) (bm) Specific proposed changes, if any, in the laws relating to unemployment insurance financing, benefits, and administration.

(c) Projections specified in ~~subd. 1.~~ par. (am) under the proposed laws.

(f) If unemployment insurance program debt is projected at the end of the forecast period, the ~~reasons why it is not~~ methods proposed to liquidate the debt.

SECTION 3. 16.48 (1) (b) of the statutes is repealed.

SECTION 4. 16.48 (2) of the statutes is repealed.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 5. 16.48 (3) of the statutes is amended to read:

16.48 (3) ~~No Biennially, no later than June 15 January 31 of each odd-numbered even-numbered year, the secretary of workforce development, under the direction of shall submit to the governor, shall submit to each member of the legislature an updated speaker of the assembly, the minority leader of the assembly, the majority and minority leaders of the senate, and the council on unemployment insurance the statement of unemployment insurance financial outlook which shall contain the information specified in prepared under sub. (1) (a), together with the governor's recommendations and an explanation for such recommendations, and a copy of the a report required that summarizes the deliberations of the council and the position of the council regarding any proposed change to the unemployment insurance laws submitted under sub. (1) (b).~~

SECTION 6. 16.48 (4) of the statutes is created to read:

16.48 (4) The department shall post the most recent version of the statement prepared under sub. (1) and the most recent version of the report prepared under sub. (3) on the department's Internet site.

SECTION 7. 59.40 (4) of the statutes is amended to read:

59.40 (4) CLERK OF CIRCUIT COURT; DEBT COLLECTOR CONTRACT. If authorized by the board under s. 59.52 (28), the clerk of circuit court may contract with a debt collector, as defined in s. 427.103 (3), or enter into an agreement with the department of revenue under s. 71.93 (8) for the collection of debt. Any contract entered into with a debt collector shall provide that the debt collector shall be paid from the proceeds recovered by the debt collector. Any contract entered into with the department shall provide that the department shall charge a collection fee, as provided under s. 71.93 (8) (b) ~~+~~ 1m. The net proceeds received by the clerk of circuit court after the payment to the debt collector shall be considered the amount of debt collected for purposes of distribution to the state and county under sub. (2) (m).

SECTION 8. 71.93 (8) (b) 1. of the statutes is renumbered 71.93 (8) (b) 1. (intro.) and amended to read:

71.93 (8) (b) 1. (intro.) Except as provided in subd. 2., a state agency and the department of revenue shall enter into a written agreement to have the department collect any amount owed to the state agency that is more than 90 days past due, unless ~~negotiations~~ any of the following applies:

a. Negotiations between the agency and debtor are actively ongoing, ~~the~~

b. The debt is the subject of legal action or administrative proceedings, ~~or the~~

c. The agency determines that the debtor is adhering to an acceptable payment arrangement.

1m. At least 30 days before the department pursues the collection of any debt referred by a state agency,

either the department or the agency shall provide the debtor with a written notice that the debt will be referred to the department for collection. The department may collect amounts owed, pursuant to the written agreement, from the debtor in addition to offsetting the amounts as provided under sub. (3). The department shall charge each debtor whose debt is subject to collection under this paragraph a collection fee and that amount shall be credited to the appropriation under s. 20.566 (1) (h).

SECTION 9. 71.93 (8) (b) 1. d. of the statutes is created to read:

71.93 (8) (b) 1. d. The debt is an amount owed under ch. 108 or under a federal unemployment benefit program administered by the department of workforce development.

SECTION 10. 108.02 (2) (c) of the statutes is amended to read:

108.02 (2) (c) In connection with the production or harvesting of any commodity defined as an agricultural commodity ~~in s. 15 (g) of the federal agricultural marketing act, as amended (46 Stat. 1550, s. 3; under 12 USC 1141j) or (f),~~ in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

SECTION 11. 108.02 (10e) (c) of the statutes is created to read:

108.02 (10e) (c) "Departmental error" does not include an error made by an appeal tribunal appointed under s. 108.09 (3).

SECTION 12. 108.02 (13) (c) 2. a. of the statutes is amended to read:

108.02 (13) (c) 2. a. Such crew leader holds a valid certificate of registration under ~~the federal farm labor contractor registration act of 1963 29 USC 1801 to 1872;~~ or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment which is provided by such crew leader; and

SECTION 13. 108.02 (13) (k) of the statutes is amended to read:

108.02 (13) (k) ~~"Employer"~~ Except as provided in s. 108.065 (3m), "employer" does not include a county department, an aging unit, or, under s. 46.2785, a private agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i), 46.272 (7) (e), or 47.035 as to any individual performing services for a person receiving long-term support services under s. 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance services under s. 47.02 (6) (c).

SECTION 14. 108.02 (14) of the statutes is amended to read:

108.02 (14) EMPLOYER'S ACCOUNT. "Employer's account" means ~~a~~ an employer's separate account in the

fund, reflecting the employer's experience with respect to contribution credits and benefit charges under this chapter maintained as required under s. 108.16 (2) (a).

SECTION 15. 108.02 (15) (j) 5. of the statutes is amended to read:

108.02 (15) (j) 5. In any quarter in the employ of any organization exempt from federal income tax under section 26 USC 501 (a) of the internal revenue code, other than an organization described in section 26 USC 401 (a) or 501 (c) (3) of such code, or under section 26 USC 521 of the internal revenue code, if the remuneration for such service is less than \$50;

SECTION 16. 108.02 (15) (k) 5. of the statutes is amended to read:

108.02 (15) (k) 5. With respect to which unemployment insurance is payable under the federal railroad unemployment insurance act (52 Stat. 1094) 45 USC 351 to 369;

SECTION 17. 108.02 (15) (k) 21. of the statutes is created to read:

108.02 (15) (k) 21. Performed by a full-time student, as defined in 26 USC 3306 (q), for less than 13 calendar weeks in a calendar year in the employ of an organized camp, if one of the following applies:

a. The camp does not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year.

b. The camp had average gross receipts for any 6 months in the preceding calendar year that were not more than 33 1/3 percent of its average gross receipts for the other 6 months in the preceding calendar year.

SECTION 18. 108.02 (17m) of the statutes is amended to read:

108.02 (17m) INDIAN TRIBE. "Indian tribe" has the meaning given in 25 USC 450b 5304 (e), and includes any subdivision, subsidiary, or business enterprise that is wholly owned by such an entity.

SECTION 19. 108.02 (19) of the statutes is amended to read:

108.02 (19) NONPROFIT ORGANIZATIONS. "Nonprofit organization" means an organization described in section 26 USC 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under section 26 USC 501 (a) of the Internal Revenue Code.

SECTION 20. 108.02 (26) (c) 9. of the statutes is repealed.

SECTION 21. 108.02 (26) (c) 14. of the statutes is repealed.

SECTION 22. 108.04 (7) (h) of the statutes is renumbered 108.04 (7) (u).

SECTION 23. 108.04 (12) (b) of the statutes is amended to read:

108.04 (12) (b) Any individual who receives, through the department, any other type of unemployment benefit or allowance for a given week is ineligible for benefits for that same week under this chapter, except as

specifically required for conformity with the federal trade act of 1974 (P.L. 93-618) 19 USC 2101 to 2497b.

SECTION 24. 108.04 (16) (d) 1. of the statutes is amended to read:

108.04 (16) (d) 1. The department shall not deny benefits under sub. (7) as a result of the individual's leaving unsuitable work to enter or continue such training, as a result of the individual's leaving work that the individual engaged in on a temporary basis during a break in the training or a delay in the commencement of the training, or because the individual left on-the-job training not later than 30 days after commencing that training because the individual did not meet the requirements of the federal trade act under 19 USC 2296 (c) (1) (B); and

SECTION 25. 108.04 (18) (a) of the statutes is amended to read:

108.04 (18) (a) The wages paid to an employee who performed services while the employee was an alien shall, if based on such services, be excluded from the employee's base period wages for purposes of sub. (4) (a) and ss. 108.05 (1) and 108.06 (1) unless the employee is an alien who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212 (d) (5) of the federal immigration and nationality act (8 USC 1182 (d) (5)). All claimants shall be uniformly required to provide information as to whether they are citizens and, if they are not, any determination denying benefits under this subsection shall not be made except upon a preponderance of the evidence.

SECTION 26. 108.04 (18) (b) of the statutes is amended to read:

108.04 (18) (b) Any amendment of s. 26 USC 3304 (a) (14) of the federal unemployment tax act specifying conditions other than as stated in par. (a) for denial of benefits based on services performed by aliens, or changing the effective date for required implementation of par. (a) or such other conditions, which that is a condition of approval of this chapter for full tax credit against the tax imposed by the federal unemployment tax act, shall be applicable to this subsection.

SECTION 27. 108.062 (1) (c) of the statutes is repealed.

SECTION 28. 108.062 (2) (a) of the statutes is amended to read:

108.062 (2) (a) Specify the work unit in which the plan will be implemented, the affected positions, and the names of the employees filling those positions on the date of submittal.

SECTION 29. 108.062 (2) (b) of the statutes is repealed.

SECTION 30. 108.062 (2) (c) of the statutes is amended to read:

108.062 (2) (c) Provide for initial coverage under the plan of at least ~~20~~ 2 positions that are filled on the effective date of the work-share program.

SECTION 31. 108.062 (2) (d) of the statutes is amended to read:

108.062 (2) (d) Specify the period or periods when the plan will be in effect, which may not exceed a total of ~~6~~ 12 months in any 5-year period ~~within the same work unit.~~

SECTION 32. 108.062 (2) (e) of the statutes is repealed.

SECTION 33. 108.062 (2) (h) of the statutes is amended to read:

108.062 (2) (h) Specify the normal average hours per week worked by each employee ~~in the work unit~~ and the percentage reduction in the average hours of work per week worked by that employee, exclusive of overtime hours, which shall be applied in a uniform manner and which shall be at least 10 percent but not more than ~~50~~ 60 percent of the normal hours per week of that employee.

SECTION 34. 108.062 (2) (m) of the statutes is amended to read:

108.062 (2) (m) Indicate whether the plan includes employer-sponsored training to enhance job skills and acknowledge that the employees in the ~~work unit work-share program~~ may participate in training funded under the federal Workforce Innovation and Opportunity Act, 29 USC 3101 to 3361, or another federal law that enhances job skills without affecting availability for work, subject to department approval.

SECTION 35. 108.062 (3) of the statutes is amended to read:

108.062 (3) APPROVAL OF PLANS. The department shall approve a plan if the plan includes all of the elements specified in sub. (2) ~~or (20), whichever is applicable.~~ The approval is effective for the effective period of the plan unless modified under sub. (3m).

SECTION 36. 108.062 (3r) of the statutes is amended to read:

108.062 (3r) APPLICABILITY OF LAWS. A work-share program shall be governed by the law that was in effect when the plan or modification was last approved under sub. (3) or (3m), until the program ends as provided in sub. (4), but an employer ~~with a work-share program governed by sub. (2) may, while sub. (20) is in effect,~~ apply for a modification under sub. (3m), and that modification application shall be governed by ~~sub. (20)~~ the law in effect when the modification is approved.

SECTION 37. 108.062 (4) (a) 1. of the statutes is renumbered 108.062 (4) (a) and amended to read:

108.062 (4) (a) ~~Except as provided in subd. 2., a~~ A work-share program becomes effective on the later of the Sunday of the ~~2nd week beginning~~ or after approval of a

work-share plan under sub. (3) or any Sunday after that day specified in the plan.

SECTION 38. 108.062 (4) (a) 2. of the statutes is repealed.

SECTION 39. 108.062 (4) (b) of the statutes is amended to read:

108.062 (4) (b) A work-share program ends on the earlier of the last Sunday that precedes the end of the ~~6-month~~ 12-month period beginning on the effective date of the program or any Sunday before that day specified in the plan unless the program terminates on an earlier date under sub. (5), (14), or (15).

SECTION 40. 108.062 (6) (b) of the statutes is amended to read:

108.062 (6) (b) No employee who is included ~~in a work unit~~ under a work-share program is eligible to receive any benefits for a week in which the plan is in effect in which the employee is engaged in work for the employer that sponsors the plan ~~which that,~~ when combined with work performed by the employee for any other employer for the same week, ~~exceed~~ exceeds 90 percent of the employee's average hours of work per week for the employer that creates the plan, as identified in the plan.

SECTION 41. 108.062 (15) of the statutes is amended to read:

108.062 (15) INVOLUNTARY TERMINATION. If in any week there are fewer than ~~20~~ 2 employees who are included in a work-share program of any employer, the program terminates on the 2nd Sunday following the end of that week. ~~This subsection does not apply to a work-share program to which sub. (20) applies.~~

SECTION 42. 108.062 (19) (intro.) of the statutes is renumbered 108.062 (19) and amended to read:

108.062 (19) SECRETARY MAY WAIVE COMPLIANCE. The secretary may ~~do any of the following~~ waive compliance with any requirement under this section if the secretary determines that doing so is necessary to permit continued certification of this chapter for grants to this state under Title III of the federal Social Security Act, for maximum credit allowances to employers under the federal Unemployment Tax Act, or for this state to qualify for full federal financial participation in the cost of administration of this section and financing of benefits to employees participating in work-share programs under this section.

SECTION 43. 108.062 (19) (a) of the statutes is repealed.

SECTION 44. 108.062 (19) (b) of the statutes is repealed.

SECTION 45. 108.062 (20) of the statutes, as affected by 2021 Wisconsin Act 4, is repealed.

SECTION 46. 108.065 (1e) (intro.) of the statutes is amended to read:

108.065 (1e) (intro.) Except as provided in subs. (2) ~~and (3) to (3m)~~, if there is more than one employing unit that has a relationship to an employee, the department shall determine which of the employing units is the employer of the employee by doing the following:

SECTION 47. 108.065 (3m) of the statutes is created to read:

108.065 (3m) A private agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent to recipients of services under ch. 46, 47, or 51 may elect to be the employer of one or more employees providing those services. As a condition of eligibility for election to be the employer of one or more employees providing those services, the private agency shall notify in writing the recipient of any such services of its election, for purposes of the unemployment insurance law, to be the employer of any worker providing such services to the recipient, and must be treated as the employer under 26 USC 3301 to 3311 for purposes of federal unemployment taxes on the worker's services.

SECTION 48. 108.10 (intro.) of the statutes is amended to read:

108.10 Settlement of issues other than benefit claims. (intro.) Except as provided in s. 108.245 (3), in connection with any issue arising under this chapter as to the status or liability of an employing unit ~~in this state~~, for which no review is provided under s. 108.09, ~~108.095~~, or 108.227 (5) and whether or not a penalty is provided in s. 108.24, the following procedure shall apply:

SECTION 49. 108.101 (5) of the statutes is created to read:

108.101 (5) Notwithstanding sub. (4), a final order or judgment of conviction for a crime entered by a court is binding on the convicted person in an action or proceeding under this chapter that relates to the criminal conviction. A person convicted of a crime is precluded from denying the essential allegations of the criminal offense that is the basis for the conviction in an action or proceeding under this chapter.

SECTION 50. 108.13 (4) (a) 2. of the statutes is amended to read:

108.13 (4) (a) 2. "Legal process" has the meaning given under 42 USC ~~662 (e)~~ 659 (i) (5).

SECTION 51. 108.14 (8n) (a) of the statutes is amended to read:

108.14 (8n) (a) The department shall enter into a reciprocal arrangement ~~which is~~ approved by the U.S. secretary of labor ~~pursuant to section under 26 USC 3304 (a) (9) (B) of the internal revenue code~~, to provide more equitable benefit coverage for individuals whose recent work has been covered by the unemployment insurance laws of 2 or more jurisdictions.

SECTION 52. 108.14 (8n) (e) of the statutes is amended to read:

108.14 (8n) (e) The department shall charge this state's share of any benefits paid under this subsection to

the account of each employer by which the employee claiming benefits was employed in the applicable base period, in proportion to the total amount of wages he or she earned from each employer in the base period, except that if s. 108.04 (1) (f), (5), ~~(5g)~~, (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a) ~~or (b)~~ to (c), 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) would have applied to employment by such an employer who is subject to the contribution requirements of ss. 108.17 and 108.18, the department shall charge the share of benefits based on employment with that employer to the fund's balancing account, or, if s. 108.04 (1) (f) ~~or (5)~~, or (5g) or 108.07 (3) would have applied to an employer that is not subject to the contribution requirements of ss. 108.17 and 108.18, the department shall charge the share of benefits based on that employment in accordance with s. 108.07 (5) (am) 1. and 2. The department shall also charge the fund's balancing account with any other state's share of such benefits pending reimbursement by that state.

SECTION 53. 108.14 (26) of the statutes is amended to read:

108.14 (26) The department shall prescribe by rule a standard affidavit form that may be used by parties to appeals under ss. 108.09, ~~108.095~~, and 108.10 and shall make the form available to employers and claimants. The form shall be sufficient to qualify as admissible evidence in a hearing under this chapter if the authentication is sufficient and the information set forth by the affiant is admissible, but its use by a party does not eliminate the right of an opposing party to cross examine the affiant concerning the facts asserted in the affidavit.

SECTION 54. 108.141 (1) (h) of the statutes is amended to read:

108.141 (1) (h) "State law" means the unemployment insurance law of any state, ~~that has been~~ approved by the U.S. secretary of labor under ~~section 26 USC 3304 of the internal revenue code~~.

SECTION 55. 108.141 (3g) (a) 3. b. of the statutes is amended to read:

108.141 (3g) (a) 3. b. The gross average weekly remuneration for the work exceeds the claimant's weekly benefit rate plus any supplemental unemployment benefits, as defined in ~~section 26 USC 501 (c) (17) (D) of the internal revenue code~~, then payable to the claimant;

SECTION 56. 108.141 (7) (a) of the statutes is amended to read:

108.141 (7) (a) The department shall charge the state's share of each week of extended benefits to each employer's account in proportion to the employer's share of the total wages of the employee receiving the benefits in the employee's base period, except that if the employer is subject to the contribution requirements of ss. 108.17 and 108.18 the department shall charge the share of extended benefits to which s. 108.04 (1) (f), (5), ~~(5g)~~, (7) (a), (c), (cg), (e), (L), (q), (s), or (t), (7m) or (8) (a) ~~or (b)~~

to (c), 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) applies to the fund's balancing account.

SECTION 57. 108.141 (7) (b) of the statutes is amended to read:

108.141 (7) (b) The department shall charge the full amount of extended benefits based on employment for a government unit to the account of the government unit, except that if s. 108.04 (5), ~~(5g)~~, or (7) applies and the government unit has elected contribution financing the department shall charge one-half of the government unit's share of the benefits to the fund's balancing account.

SECTION 58. 108.145 of the statutes is amended to read:

108.145 Disaster unemployment assistance. The department shall administer under s. 108.14 (9m) the distribution of disaster unemployment assistance to workers in this state who are not eligible for benefits whenever such assistance is made available by the president of the United States under ~~26~~ 42 USC 5177 (a). In determining eligibility for assistance and the amount of assistance payable to any worker who was totally self-employed during the first 4 of the last 5 most recently completed quarters preceding the date on which the worker claims assistance, the department shall not reduce the assistance otherwise payable to the worker because the worker receives one or more payments under the social security act (~~42 USC 301 et seq.~~) ch. 7, for the same week that the worker qualifies for such assistance.

SECTION 59. 108.15 (3) (d) of the statutes is amended to read:

108.15 (3) (d) If a government unit elects contribution financing for any calendar year after the first calendar year it becomes newly subject to this chapter, it shall be liable to reimburse the fund for any benefits based on prior employment. If a government unit terminates its election of contribution financing, ss. 108.17 and 108.18 shall apply to employment in the prior calendar year, but after all benefits based on such prior employment have been charged to its contribution account any balance remaining in such account shall be transferred to the fund's balancing account.

SECTION 60. 108.151 (2) (d) of the statutes is amended to read:

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

SECTION 61. 108.151 (7) (c) of the statutes is amended to read:

108.151 (7) (c) The fund's treasurer shall determine the total amount due from employers electing reimbursement financing under this section that is uncollectible as of June 30 of each year, but not including any amount that

the department determined to be uncollectible ~~prior to~~ before January 1, 2004. No amount may be treated as uncollectible under this paragraph unless the department has exhausted all reasonable remedies for collection of the amount, including liquidation of the assurance required under sub. (4). The department shall charge the total amounts so determined to the uncollectible reimbursable benefits account under s. 108.16 (6w). Whenever, as of June 30 of any year, ~~this~~ that account has a negative balance of \$5,000 or more, the treasurer shall, except as provided in par. (i), determine the rate of an assessment to be levied under par. (b) for that year, which shall then become payable by all employers that have elected reimbursement financing under this section as of that date.

SECTION 62. 108.151 (7) (f) of the statutes is amended to read:

108.151 (7) (f) If any employer would otherwise be assessed an amount less than ~~\$40~~ \$20 for a calendar year, the department shall, in lieu of requiring that employer to pay an assessment for that calendar year, apply the amount that the employer would have been required to pay to the other employers on a pro rata basis.

SECTION 63. 108.151 (7) (i) of the statutes is created to read:

108.151 (7) (i) In lieu of or in addition to assessing employers as provided in par. (b), the fund's treasurer may apply amounts set aside in the fund's balancing account under s. 108.155 (2) (a) to amounts determined to be uncollectible under par. (c) by transferring those amounts to the account under s. 108.16 (6w). The fund's treasurer may not act under this paragraph whenever the balance remaining of the amount set aside under s. 108.155 (2) (a) is less than \$1,750,000 and may not act to reduce the amount set aside below that amount.

SECTION 64. 108.152 (1) (d) of the statutes is amended to read:

108.152 (1) (d) If the Indian tribe or tribal unit is an employer ~~prior to~~ before the effective date of an election, ss. 108.17 and 108.18 shall apply to all employment ~~prior to~~ before the effective date of the election, but after all benefits based on prior employment have been charged to any account that it has had under s. 108.16 (2), the department shall transfer any positive balance or charge any negative balance remaining therein to the fund's balancing account as if s. 108.16 (6) (c) and (6m) (d) applied.

SECTION 65. 108.155 (2) (a) and (d) of the statutes are amended to read:

108.155 (2) (a) On October 2, 2016, the fund's treasurer shall set aside \$2,000,000 in the fund's balancing account for accounting purposes. On an ongoing basis, the fund's treasurer shall tally the amounts allocated to reimbursable employers' accounts under s. 108.04 (13) (d) 4. c. and all amounts transferred to the account under s. 108.16 (6w) as provided in s. 108.151 (7) (i) and shall

deduct those amounts from the amount set aside plus any interest calculated thereon.

(d) If the department assesses reimbursable employers under par. (c), the department shall determine the amount of assessments to be levied as provided in sub. (3), and the fund's treasurer shall notify reimbursable employers that the assessment will be imposed. Except as provided in sub. (3) (c), the assessment shall be payable by each reimbursable employer that is subject to this chapter as of the date the assessment is imposed. Assessments imposed under this section shall be credited to the fund's balancing account.

SECTION 66. 108.16 (6m) (a) of the statutes is amended to read:

108.16 (6m) (a) The benefits thus chargeable under sub. (7) (a) or (b) or s. 108.04 (1) (f), (5), (5g), (7) (h) (u), (7m), (8) (a) or (b) to (c), (13) (c) or (d) or (16) (e), 108.07 (3), (3r), (5) (am) 2. and (bm) 3. a., (5m), and (6), 108.133 (3) (f), 108.14 (8n) (e), 108.141, 108.15, 108.151, or 108.152 or sub. (6) (e) or (7) (a) and (b).

SECTION 67. 108.16 (6m) (j) of the statutes is created to read:

108.16 (6m) (j) Any amount transferred to the account under sub. (6w) as provided in s. 108.151 (7) (i).

SECTION 68. 108.16 (6w) of the statutes is amended to read:

108.16 (6w) The department shall maintain within the fund an uncollectible reimbursable benefits account to which the department shall credit all amounts received from employers under s. 108.151 (7) and all amounts transferred from the fund's balancing account as provided in s. 108.151 (7) (i).

SECTION 69. 108.16 (6x) of the statutes is amended to read:

108.16 (6x) The department shall charge to the uncollectible reimbursable benefits account the amount of any benefits paid from the fund's balancing account that are reimbursable under s. 108.151 but for which the department does not receive reimbursement after the department exhausts all reasonable remedies for collection of the amount.

SECTION 70. 108.16 (9) (a) of the statutes is amended to read:

108.16 (9) (a) Consistently with section 26 USC 3305 of the internal revenue code, relating to federal instrumentalities which that are neither wholly nor partially owned by the United States nor otherwise specifically exempt from the tax imposed by section under 26 USC 3301 of the internal revenue code:

1. Any contributions required and paid under this chapter for ~~1939 or any subsequent~~ year by any such instrumentality, including any national bank, shall be refunded to such that instrumentality in case this chapter is not certified with respect to such year under s. 26 USC 3304 of said code.

2. No national banking association ~~which is subject to this chapter shall be~~ required to comply with any of its provisions or requirements under this chapter, to the extent that such compliance would be contrary to s. 26 USC 3305 of said code.

SECTION 71. 108.18 (3) (c) of the statutes is amended to read:

108.18 (3) (c) Permitting the employer to pay such lower rate is consistent with the relevant conditions then applicable to additional credit allowance for such year under section 26 USC 3303 (a) of the federal unemployment tax act, any other provision to the contrary notwithstanding.

SECTION 72. 108.19 (3) of the statutes is repealed.

SECTION 73. 108.22 (8e) of the statutes is amended to read:

108.22 (8e) If the department determines a payment has been made to an unintended recipient erroneously without fault on the part of the intended payee or payee's authorized agent, the department may issue the correct payment to the intended payee if necessary, and may recover the amount of the erroneous payment from the recipient under this section or s. 108.225 or 108.245. Any amount so recovered shall be credited to the fund's balancing account.

SECTION 74. 108.22 (10) of the statutes is amended to read:

108.22 (10) A private agency that serves as a fiscal agent under s. 46.2785 or contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.272 (7) (e) or 47.035 as to any individual performing services for a person receiving long-term support services under s. 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance services under s. 47.02 (6) (c) may be found jointly and severally liable for the amounts owed by the person under this chapter, if, at the time the person's quarterly report is due under this chapter, the private agency served as a fiscal agent for the person. The liability of the agency as provided in this subsection survives dissolution, reorganization, bankruptcy, receivership, assignment for the benefit of creditors, judicially confirmed extension or composition, or any analogous situation of the person and shall be set forth in a determination or decision issued under s. 108.10. An appeal or review of a determination under this subsection shall not include an appeal or review of determinations of amounts owed by the person. This subsection does not apply with respect to a private agency that has made an election under s. 108.065 (3m).

SECTION 75. 108.223 (2) (b) of the statutes is amended to read:

108.223 (2) (b) The department shall enter into agreements with financial institutions doing business in this state to operate the financial record matching program under this section. An agreement shall require the

financial institution to participate in the financial record matching program by electing either the financial institution matching option under sub. (3) or the state matching option under sub. (4). The financial institution and the department may by mutual agreement ~~make changes to~~ amend the agreement. A financial institution that wishes to choose a different matching option shall provide the department with at least 60 days' notice. The department shall furnish the financial institution with a signed copy of the agreement.

SECTION 76. 108.23 of the statutes is amended to read:

108.23 Preference of required payments. In the event of an employer's dissolution, reorganization, bankruptcy, receivership, assignment for benefit of creditors, judicially confirmed extension proposal or composition, or any analogous situation including the administration of estates in circuit courts, the payments required of the employer under this chapter shall have preference over all claims of general creditors and shall be paid next after the payment of preferred claims for wages. If the employer is indebted to the federal government for taxes due under the federal unemployment tax act and a claim for the taxes has been duly filed, the amount of contributions which should be paid to allow the employer the maximum offset against the taxes shall have preference over preferred claims for wages and shall be on a par with debts due the United States, if by establishing the preference the offset against the federal tax can be secured under s. 26 USC 3302 (a) (3) ~~of the federal unemployment tax act.~~

SECTION 77. 108.24 (3) (a) 3. a. of the statutes is amended to read:

108.24 (3) (a) 3. a. Refrain from claiming or accepting benefits, participating in an audit or investigation by the department, or testifying in a hearing held under s. 108.09, 108.095, or 108.10.

SECTION 78. 108.24 (3) (a) 4. of the statutes is amended to read:

108.24 (3) (a) 4. Discriminates or retaliates against an individual because the individual claims benefits, participates in an audit or investigation by the department under this chapter, testifies in a hearing under s. 108.09, 108.095, or 108.10, or exercises any other right under this chapter.

SECTION 79. Initial applicability.

(1) The treatment of s. 108.02 (15) (k) 21. first applies to services performed on the effective date of this subsection.

(2) The treatment of s. 108.02 (10e) (c) first applies to determinations issued under s. 108.09 on the effective date of this subsection.

SECTION 80. Effective dates. This act takes effect on the first Sunday after publication, except as follows:

(1) The treatment of s. 16.48 (1) (a) (intro.), 1., 2., 3., 4., 5., and 6. and (b), (2), (3), and (4) takes effect on February 1, 2022.

(2) The treatment of ss. 108.02 (13) (k) and 108.065 (1e) (intro.) and (3m) takes effect on January 1, 2023.

(3) The creation of s. 108.02 (15) (k) 21. and SECTION 79 (1) of this act take effect on the first Sunday of the first year beginning after the date of publication.