



## Unemployment Insurance Advisory Council

### Meeting Agenda

May 18, 2023, 10:00 a.m. – 4:00 p.m.

#### **The public may attend by teleconference.**

Phone: 415-655-0003 or 855-282-6330 (toll free) or [WebEx](#)  
Meeting number (access code): 2591 665 2956 Password: DWD1

Materials: <https://dwd.wisconsin.gov/uibola/uiac/meetings.htm>

1. Call to order and introductions
2. Approval of minutes of the April 20, 2023 UIAC meeting
3. Department update
4. Quarterly report on UI information technology systems ([1/1/23-3/31/23](#))
5. Trust Fund update – Shashank Partha
6. Judicial update
  - [Vega v. LIRC](#)
7. Department proposals to amend the unemployment insurance law
  - D23-01 – Amend Social Security Disability Insurance Disqualification
  - D23-02 – Worker Misclassification Penalties
  - D23-03 – Discharge for use of Marijuana
  - D23-04 – Imposter Penalty
  - D23-05 – Electronic Communication and Filing
  - D23-06 – Unemployment Administration Fund – approval of LRB draft
8. Rulemaking proposal
  - Proposed scope statement for UI hearings - DWD 140
9. Labor and Management proposals to amend the unemployment insurance law
10. Research requests
11. 2023-2024 UIAC timeline

12. Future meeting dates: June 15, July 20, Aug. 17, Sept. 21, Oct. 19, Nov. 16
13. Adjourn

### **Notice**

- ❖ The Council may take up action items at a time other than that listed.
- ❖ The Council may not address all agenda items or follow the agenda order.
- ❖ The Council members may attend the meeting by teleconference or videoconference.
- ❖ The employee or employer representative members of the Council may convene in closed session at any time during the meeting to deliberate any matter for potential action or items listed in this agenda, under Wis. Stat. § 19.85(1)(ee). The Council may then reconvene again in open session after the closed session.
- ❖ This location is accessible to people with disabilities. If you need an accommodation, including an interpreter or information in an alternate format, please contact the UI Division Bureau of Legal Affairs at 608-266-0399 or dial 7-1-1 for Wisconsin Relay Service.

# UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

## Meeting Minutes

Offices of the State of Wisconsin Department of Workforce Development  
201 E. Washington Avenue, GEF 1, Madison, WI

April 20, 2023

Held In-person and Via Teleconference

The meeting was preceded by public notice as required under Wis. Stat. § 19.84.

**Members:** Janell Knutson (Chair), Di Ann Fechter, David Bohl, Corey Gall, Mike Gotzler, Shane Griesbach, Susan Quam, Kathy Thornton-Bias, and Scott Manley.

**Department Staff:** Pamela McGillivray (Deputy Secretary), Jeremy Simon (Assistant Deputy Secretary), Jim Chiolino, Jim Moe, Andy Rubsam, Jason Schunk, Shashank Partha, Jeff Laesch, Robert Usarek, Mary Jan Rosenak, Jennifer Wakerhauser (DWD Chief Legal Counsel), Caitlan Madden (DWD Deputy Legal Counsel), Samantha Ahrendt (DWD Staff Counsel), Arielle Exner (Legislative Liaison), Melissa Montey, Aaron Wald, Kinen Fleming, Mike Myszewski, and Joe Brockman

**Members of the Public:** Victor Forberger (Attorney, Wisconsin UI Clinic), BJ Dernbach (Committee Clerk, Assembly Workforce Development Committee), Gary Rainstrom, Sheila Sullivan (Legal Action of Wisconsin), and Brenda Lewison (Legal Action of Wisconsin)

### 1. Call to Order and Introductions

Ms. Knutson called the Unemployment Insurance Advisory Council to order at 10:03 am under the Wisconsin Open Meetings Law. Attendance was taken by roll call, and Ms. Knutson acknowledged the department staff in attendance.

### 2. Approval of Minutes

Motion by Mr. Griesbach, second by Mr. Manley, to approve the minutes of the January 19, 2023, meeting without correction. The vote was taken by roll call and passed unanimously

### 3. Department Update

Mr. Chiolino briefed the Council on the Department's ongoing UI modernization project. Mr. Chiolino stated that in March the eBill payment system was implemented. Mr. Chiolino stated that in the next week or two the Department will be implementing a program to verify benefit claimant addresses. This is part of the federally-recommended ID proofing process.

Ms. Thornton-Bias asked if the eBill payment program was being used by employers. Mr. Chiolino stated that it is a new service that has only been in use a few weeks.

#### **4. Quarterly Report on UI Information Technology Systems (10/1/22 – 12/31/22)**

Ms. Knutson stated that the latest quarterly report on the UI information technology systems can be found in members' packets.

#### **5. Trust Fund Update**

Mr. Partha stated that the UI Trust Fund full report can be found in members' packets.

Mr. Partha stated that benefits paid through March 2023 increased by \$3.7 million when compared to last year at this same time. Mr. Partha stated that 2023 YTD tax receipts are \$47 million, and the Trust Fund balance was \$1.2 billion at the end of March 2023, a 26% increase when compared to last year at this same time.

#### **6. 2023 Fraud Report to the UI Advisory Council**

Ms. Knutson stated that a link to the 2022 Fraud Report was emailed to Council members. Ms. Knutson stated that in 2022 claims dropped to all-time lows. Ms. Knutson called members' attention to the sections on work search, worker classification investigations, fraud overpayments, and overpayment recoveries.

Ms. Thornton-Bias asked about the comparison of the amounts of overpayments versus the new fraud detection software.

Ms. Knutson stated that the effectiveness of the fraud detection software will be reflected in next year's Fraud Report.

#### **7. Correspondence**

Mr. Rubsam stated that the Department received an item of correspondence from an employer regarding issues with the work search requirements. The correspondence is contained in members' packets.

#### **8. Judicial Update**

##### *Khazai v. Dep't. of Workforce Dev*

Mr. Rubsam stated that Amir Khazai appealed a circuit court decision upholding a LIRC decision that Khazai was ineligible for UI benefits in weeks 12 to 20 of 2020. The court of appeals found that Khazai's appeal was moot based on a subsequent decision of LIRC issued in July of 2022. Khazai's appeal was dismissed by the court of appeals.

##### *Amazon Logistics v. Lab. & Indus. Rev. Comm'n*

Mr. Rubsam stated that the Department found that Amazon Logistics drivers were misclassified as independent contractors and were reclassified the drivers as employees. Amazon appealed the decision to LIRC. LIRC found that the drivers were employees, meeting only one of nine conditions to be considered an independent contractor. Amazon appealed LIRC's decision to

Waukesha County Circuit Court, and the circuit court set aside LIRC's decision and found that the workers were independent contractors and met nine of nine conditions. LIRC and the Department appealed the decision to the court of appeals. The court reversed the circuit court and found that the drivers were employees, meeting five of nine conditions. Mr. Rubsam stated that the court of appeals has recommended this case for publication.

Mr. Manley commented that the reversals show the difficulty of interpreting the independent contractor test.

Mr. Rubsam stated that the current law went into effect in 2010 and there have not been many court of appeals decisions on the law.

*Catholic Charities Bureau, Inc. v. Lab & Indus. Rev. Comm'n*

Mr. Rubsam stated that this was a tax case and was published. The court of appeals affirmed LIRC and found that the employer was subject to the UI law and did not operate for primarily religious purposes. The Catholic Charities Bureau filed a petition for review with the Wisconsin Supreme Court. The Supreme Court has decided to accept the case.

## **9. Department Proposals to Amend the Unemployment Insurance Law**

Mr. Chiolino stated that the Department has six proposals to amend the unemployment insurance law.

- D23-01 Amend Social Security Disability Insurance Disqualification

Mr. Chiolino stated that this proposal repeals the prohibition that allows an otherwise eligible claimant to receive both federal social security disability benefits (SSDI) and unemployment insurance (UI) benefits for the same period, and instead requires DWD to reduce a claimant's UI benefit payments by the amount of the SSDI payments similar to pension payments. DWD would reduce the amount of weekly UI benefits by the proportionate amount of the claimant's SSDI payments.

- D23-02 Worker Misclassification Penalties

Mr. Chiolino stated that the Joint Task Force on Payroll Fraud and Worker Misclassification recommended that the penalties for intentional worker misclassification be structured to deter repeat violations. The Governor's budget bill proposes to amend the administrative penalties statutes by having the penalties potentially apply to all employers. The proposal also eliminates the \$7,500 and \$10,000 caps on the administrative penalties and doubles the penalties for subsequent violations. The proposal amends the criminal penalties to potentially apply to any employer. Criminal referrals may be made either to the Wisconsin Department of Justice or a county district attorney.

- D23-03 Discharge for Use of Marijuana

Mr. Chiolino stated that this proposal would ensure that a person would not be denied UI benefits for recreational use of marijuana during non-working hours unless termination for that use is permitted under the Wisconsin fair employment law.

- D23-04 Imposter Penalty

Ms. Knutson stated that the Department proposes to create a new \$5,000 penalty that would be assessed against imposters who make false statements for the purpose of attempting to receive benefits in the name of another person on an initial claim for their own benefit. Ms. Knutson stated that this new penalty would apply to all imposters, regardless of whether they received any benefit payments.

- D23-05 Electronic Communication and Filing

Mr. Rubsam stated that this proposal makes the electronic filing, electronic communication, and electronic payment provisions, currently in effect for employers with at least 25 employees, mandatory for all employers unless the employer demonstrates good cause for being unable to use the electronic method. This proposal mandates electronic communication for claimants unless the claimant has good cause for being unable to use the electronic method. The proposal also provides that the department may use electronic records and electronic signatures. The provision related to electronic communication will be effective when the Department has the technological capability to fully implement it.

- D23-06 Unemployment Administrative Fund

Mr. Rubsam stated that this proposal would create an Administrative Fund for receiving the employer interest and penalties collected under section 108.221(1) of the statutes, and any amounts the UI Division collects that are not designated for another fund. Like other funds related to the unemployment program, the amounts in the newly recreated fund would be designated as "nonlapsible." The purpose of this proposal is to provide consistent treatment for the amounts collected by the Department and to better ensure the amounts paid by employers remain with the unemployment program.

Mr. Rubsam stated that members' packets contain summaries of the various sections from 2021 SB 899. If the Council approves this proposal, the Department will ask the Legislative Reference Bureau to redraft the bill.

Mr. Manley had a question regarding the recreational use of marijuana at home. Mr. Manley asked how the Department would determine that the marijuana use is at an individual's home?

Mr. Chiolino stated the Department would handle marijuana use in a manner similar to the way in which it handles alcohol use. Mr. Chiolino stated that the Department would have to flesh out this proposal.

Ms. Thornton-Bias asked what would be the effect of the SSDI change on the number of claimants?

Mr. Chiolino stated that there is a preliminary fiscal impact statement on page 113 of members' packets, and that there would not be a big impact on the Trust Fund.

Mr. Manley asked about the impact of the marijuana change on federal contractors where employers are required to drug test as well as other workers in the transportation industry since marijuana is illegal under federal law.

Mr. Rubsam stated that a worker may be ineligible for unemployment benefits on other grounds if their license is suspended.

## **10. Legislation Update**

Mr. Rubsam reviewed the five UI related bills:

- Various changes to the unemployment insurance law and requiring approval by the Joint Committee on Finance of certain federally authorized unemployment benefits (misconduct, work registration, and work search audits - AB 147 / SB 237).
- Various changes to the unemployment insurance law (suitable work, work search, recovery of overpayments - AB 149 / SB 231).
- Various changes to the unemployment insurance law, federal Reemployment Services and Eligibility Assessment grants and granting rule-making authority (reemployment assistance, work search, drug testing, RESEA grants - AB 150 / SB 232).
- Various changes to the unemployment insurance law and authorizing the secretary of administration to transfer employees from any executive branch agency to the Department of Workforce Development for certain purposes (identity proofing, educational materials, assistance call center, database comparisons, transfer of employees to DWD - AB 152 / SB 235).
- The amount of benefits received under the unemployment insurance law (AB 153 / SB 233).

## **11. Rulemaking Update**

- Ms. Knutson stated that a technical correction was made to Wis. Admin. Code DWD § 113.03(3) to delete reference to a repealed statute in Chapter 46.

- Ms. Knutson stated there is a proposed scope statement for UI hearings, to amend chapter DWD 140 in members' packets. Ms. Knutson stated that as of March 2020 virtually all hearings are being conducted by telephone. In the month before the Pandemic approximately 99.6% of all hearings were being conducted by telephone. This proposed rule will identify the process by which a party or witness may request an in-person hearing or a hearing by video conference. The proposed rule will provide that it is within the discretion of the hearing office to provide the method of the hearing.

## **12. Labor and Management Proposals to Amend the Unemployment Insurance Law**

Ms. Knutson stated that this item was placed on the agenda to provide the members an opportunity to discuss their proposals.

## **13. Research Requests**

There were no research requests.

## **14. 2023-2024 UIAC Timeline**

Ms. Knutson stated that the updated 2023-2024 UIAC timeline is included in members' packets.

## **15. Future Meeting Dates**

Ms. Knutson provided the following meeting dates:

May 18<sup>th</sup>, June 15<sup>th</sup>, July 20<sup>th</sup>, August 17<sup>th</sup>, September 21<sup>st</sup>, and October 19<sup>th</sup>.

Mr. Griesbach moved that Labor and Management convene in closed caucus to deliberate department proposals and other items on the agenda. The motion was seconded by Mr. Manley. The vote was taken by roll call and the motion passed unanimously.

Management and Labor convened in closed caucus session at 10:57 am.

The Council reconvened from closed caucus session at 12:49 pm.

Mr. Manley reported that Labor and Management came to agreement on Department proposal D23-06. Mr. Manley stated that Labor and Management also agreed to the Wis. Admin. Code DWD § 113.03(3) correction.

Mr. Manley moved that the council approve Department proposal D23-06 Unemployment Administrative Fund. The motion was seconded by Mr. Griesbach. The vote was taken by roll call and the motion passed unanimously.

## **16. Adjourn**

All business concluded and the meeting adjourned at 12:56 pm.





# State of Wisconsin

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Date: April 27, 2023

To: Members of the Joint Committee on Finance and Joint Committee on Information Policy and Technology

From: Department of Administration Secretary-designee Kathy Blumenfeld

*Kathy Blumenfeld*

From: Department of Workforce Development Secretary-designee Amy Pechacek

*Amy Pechacek*

**Subject:** 2021 Wisconsin Act 4 Quarterly Report – First Quarter 2023

Pursuant to 2021 Wisconsin Act 4, under Wis. Stat. s. 108.14(27)(e), this report serves to update you on the progress the Department of Workforce Development (DWD) has made on its project to update the information technology (IT) systems used for processing and paying claims for unemployment insurance (UI) benefits from January 1 to March 31, 2023. We are pleased to share in this report that DWD has continued to make good progress in its UI modernization efforts.

## **Unemployment Insurance System Modernization**

The Unemployment Insurance (UI) Modernization project is the effort to modernize the UI IT systems from a COBOL-based mainframe system to a cloud-based flexible system able to nimbly adapt to changes in the demands on the agency and changes in the program requirements. The goal of this project is to create a more modern, maintainable, sustainable, adaptable system to meet current and changing UI needs. Over time, the project will entirely replace the existing, antiquated mainframe, which has limitations in the availability of the system and directly impacts staffing and recruiting resources.

The future UI system will provide end-to-end services to DWD customers (claimants and employers) in a timely manner. DWD staff will be able to administer programs inclusively and efficiently, with modern online tools.

As previously reported, DWD has been working with Wisconsin-based Flexion to develop many of the early components of a modernized system. The department is working with Flexion to:

- Establish a cloud-based infrastructure that is modern, secure, and flexible enough to meet the changing demands.
- Transfer claims processing from the legacy system to the modern solution in an agile and iterative approach. This approach allows for continuous improvement of the overall development process to ensure each phase of development meets the needs of UI programs, while allowing the current UI system to continue to operate.

Throughout the first phase of this project, DWD has prioritized eliminating manual processes, including the determination of whether a claimant meets the criteria for benefits, the amount of the benefits, and the charging associated with benefits. This provides the foundation for future phases. During this reporting

period, development focused on the Benefit Estimator, the benefit calculation engine foundation, and system infrastructure.

### **Benefit Estimator**

While under development, DWD continued to gather user feedback to learn of potential issues and iteratively update the Benefit Estimator.

A small group of staff continue to use the Benefit Estimator as a production tool. Their experience and feedback resulted in refinements to the Benefit Estimator screens to make the process as intuitive and efficient as possible.

### **Benefit Calculation Engine Foundation**

The Benefit Estimator uses some key claimant information to estimate the claimant's benefit amount. These calculations are the foundation for identifying an accurate benefit amount. Building on the foundational work that started last quarter, DWD continued to develop the Benefit Calculation Engine in order to access the claimant information necessary for calculating their benefits. This includes determining the wages that will be used in the calculation, determining the initial weekly benefit rate and the maximum benefit amount, as well as identifying the UI base period.

The work for this quarter had two primary focuses: 1) continuing to add increasingly complex calculations in order to address all circumstances that establish a benefit amount and timeframe; and 2) using comparisons between the calculations of the legacy and modern system to refine those calculations. Ultimately, the overall system will be streamlined, but, for purposes of the monetary calculations, we are continuing to add increasingly complex calculations until we have the full monetary reflected. One of the ways that we are streamlining the system is by splitting the processes that handle the calculation of the benefit, identifying the amount the employer is responsible for, and establishing the correct charge to the employer. In the current legacy system, these three functions are intertwined so that to address one element, the system must reprocess all three.

During 2023 Quarter 1, the development team made significant progress on core calculations used to determine the eligibility on an initial claim. These calculations focus on how values will be used in the final determination and result in an assessment of the share of each employer's responsibility.

Additionally, a first iteration of a web-based interface was designed for users, testing how staff will interact with the calculation results as they are processed through the modern system. This design will continue to be refined and built as the calculations processed increase in complexity.

A success this quarter was the implementation of a fully functional mechanism to compare the modern calculation results to the legacy system. This mechanism establishes verifiable confidence that the modern calculation results are in fact accurate. As mismatches are identified in the calculations, the results are reviewed to assess whether the change is anticipated or to identify other processes that need to be applied in that circumstance. We will continue to use this mechanism throughout development to validate the results at each step in the process.

Work on the benefit calculation engine will continue over the coming quarters by adding increasing complexity to these types of calculations, including calculating the amount that each employer is responsible for, and starting to evaluate how best to charge impacted employers their share.

**Infrastructure**

Work continues to establish a secure and reliable cloud environment. A secure and reliable cloud environment is required and an essential step in the process of moving away from the legacy main frame application.

Work on the cloud infrastructure has been focused on the following:

- Establishing sound practices for moving code from development to a more production focused location in the cloud.
- Continuing to improve the overall security of the new system's applications and engaging in the early planning steps that establish containers around different parts of the cloud environment to enhance the security and stability of the solution.
- Improving the infrastructure's foundation so that the newly developed applications can be implemented quickly, efficiently, and tested to ensure confidence.
- Identifying and implementing steps for enhanced security to allow for the storage of sensitive data in the cloud.

**Future Efforts**

DWD has prioritized eliminating manual processes in some key areas to maximize the impact for the end users, resulting in timely payment of benefits. Continued use of modern development practices will further increase the efficiency and flexibility of the new system. Over the coming quarters, DWD will continue to focus on building the systematic components that address the determination of whether a claimant meets the eligibility criteria for benefits, the correct amount of benefits, and the charging of that amount to the employer. Through this ongoing development of modern technology, DWD will establish mechanisms to provide flexible, real-time services to DWD customers. The result will reduce manual processing, as well as staff training time, increase flexibility and adaptability, and provide increasingly more accurate processing within the new system.

We hope you find this information helpful. We will provide the next quarterly update on the UI modernization project to you in July 2023. In the meantime, please do not hesitate to contact us with questions.

## UI Reserve Fund Highlights

May 18, 2023

- Benefit payments through April 2023 increased by \$12.1 million or 8.7% when compared to benefits paid through April 2022.

<b>Benefits Paid</b>	<b>2023 YTD*</b> <i>(in millions)</i>	<b>2022 YTD*</b> <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Total Regular UI Paid	\$151.5	\$139.4	\$12.1	8.7%

- Tax receipts through April 2023 increased by \$81 million or 30.0% when compared to tax receipts through April 2022.

<b>Tax Receipts</b>	<b>2023 YTD*</b> <i>(in millions)</i>	<b>2022 YTD*</b> <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Total Tax Receipts	\$351.1	\$270.1	\$81.0	30.0%

- The April 2023 Trust Fund ending balance was over \$1.4 billion, an increase of 28.9% when compared to the same time last year. A balance of \$1.2 billion on June 30 will mean that Schedule D will continue for next year.

<b>UI Trust Fund Balance</b>	<b>April 2023</b> <i>(in millions)</i>	<b>April 2022</b> <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Trust Fund Balance	\$ 1481.4	\$ 1149.5	\$331.9	28.9%

- Interest earned on the Trust Fund is received quarterly. Interest for the first quarter of 2023 was \$5.9 million compared to \$4.4 million for the same period last year.

<b>UI Trust Fund Interest</b>	<b>2023 YTD*</b> <i>(in millions)</i>	<b>2022 YTD*</b> <i>(in millions)</i>	<b>Change</b> <i>(in millions)</i>	<b>Change</b> <i>(in percent)</i>
Total Interest Earned	\$5.9	\$4.4	\$1.5	34.1%

\*All calendar year-to-date (YTD) numbers are based on the April 30, 2023, Financial Statements.

# FINANCIAL STATEMENTS

For the Month Ended April 30, 2023



Unemployment Insurance Division

Bureau of Tax and Accounting

DEPARTMENT OF WORKFORCE DEVELOPMENT  
U.I. TREASURER'S REPORT  
BALANCE SHEET  
FOR THE MONTH ENDED April 30, 2023

<u>ASSETS</u>	<u>CURRENT YEAR</u>	<u>PRIOR YEAR</u>
<b>CASH:</b>		
U.I. CONTRIBUTION ACCOUNT	112,209,965.91	86,816,609.66
U.I. BENEFIT ACCOUNTS	(2,172,689.65)	(249,076.62)
U.I. TRUST FUND ACCOUNTS (1) (2) (3)	<u>1,445,670,995.61</u>	<u>1,166,346,041.25</u>
TOTAL CASH	<u>1,555,708,271.87</u>	<u>1,252,913,574.29</u>
<b>ACCOUNTS RECEIVABLE:</b>		
BENEFIT OVERPAYMENT RECEIVABLES	200,312,067.26	201,736,670.69
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(58,371,477.64)</u>	<u>(40,410,738.50)</u>
NET BENEFIT OVERPAYMENT RECEIVABLES	141,940,589.62	161,325,932.19
TAXABLE EMPLOYER RFB & SOLVENCY RECEIV (5) (6)	37,677,991.25	32,030,285.94
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS (4)	<u>(15,347,844.19)</u>	<u>(14,552,877.47)</u>
NET TAXABLE EMPLOYER RFB & SOLVENCY RECEIV	22,330,147.06	17,477,408.47
OTHER EMPLOYER RECEIVABLES	22,323,236.15	22,016,122.59
LESS ALLOWANCE FOR DOUBTFUL ACCOUNTS	<u>(7,576,447.16)</u>	<u>(7,260,585.57)</u>
NET OTHER EMPLOYER RECEIVABLES	14,746,788.99	14,755,537.02
TOTAL ACCOUNTS RECEIVABLE	<u>179,017,525.67</u>	<u>193,558,877.68</u>
TOTAL ASSETS	<u><u>1,734,725,797.54</u></u>	<u><u>1,446,472,451.97</u></u>
<b><u>LIABILITIES AND EQUITY</u></b>		
<b>LIABILITIES:</b>		
CONTINGENT LIABILITIES (7)	114,429,471.78	130,854,384.42
OTHER LIABILITIES	51,137,557.46	71,695,455.97
FEDERAL BENEFIT PROGRAMS	1,081,771.95	687,964.77
CHILD SUPPORT HOLDING ACCOUNT	53,748.00	11,328.00
FEDERAL WITHHOLDING TAXES DUE	124,769.00	48,718.00
STATE WITHHOLDING TAXES DUE	695,895.04	660,468.34
DUE TO OTHER GOVERNMENTS (8)	<u>3,017,307.32</u>	<u>2,729,596.10</u>
TOTAL LIABILITIES	170,540,520.55	206,687,915.60
<b>EQUITY:</b>		
RESERVE FUND BALANCE	2,821,029,681.33	2,657,896,042.74
BALANCING ACCOUNT	<u>(1,256,844,404.34)</u>	<u>(1,418,111,506.37)</u>
TOTAL EQUITY	<u>1,564,185,276.99</u>	<u>1,239,784,536.37</u>
TOTAL LIABILITIES AND EQUITY	<u><u>1,734,725,797.54</u></u>	<u><u>1,446,472,451.97</u></u>

1. \$9,494,534 of this balance is for administration purposes and is not available to pay benefits.
2. \$1,272,730 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.
3. \$11,621,717 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-14/21 and 75% of the benefits paid for reimbursable employers for UI Weeks 15/21-36/21 per 2103 of the CARES Act, the Continued Assistance Act, and the American Rescue Act.
4. The allowance for uncollectible benefit overpayments is 31.2%. The allowance for uncollectible delinquent employer taxes is 44.8%. This is based on the historical collectibility of our receivables. This method of recognizing receivable balances is in accordance with generally accepted accounting principles.
5. The remaining tax due at the end of the current month for employers utilizing the 1st quarter deferral plan is \$2,844,227. Deferrals for the prior year were \$2,042,381.
6. \$14,380,284, or 38.2%, of this balance is estimated.
7. \$92,624,149 of this balance is net benefit overpayments which, when collected, will be credited to a reimbursable or federal program. \$21,805,323 of this balance is net interest, penalties, SAFI, and other fees assessed to employers and penalties and other fees assessed to claimants which, when collected, will be credited to the state fund.
8. This balance includes SAFI Payable of \$761. The 04/30/2023 balance of the Unemployment Interest Payment Fund (DWD Fund 214) is \$75,661. Total Life-to-date transfers from DWD Fund 214 to the Unemployment Program Integrity Fund (DWD Fund 298) were \$9,501,460.

DEPARTMENT OF WORKFORCE DEVELOPMENT  
U.I. TREASURER'S REPORT  
RESERVE FUND ANALYSIS  
FOR THE MONTH ENDED April 30, 2023

	<u>CURRENT ACTIVITY</u>	<u>YTD ACTIVITY</u>	<u>PRIOR YTD</u>
BALANCE AT BEGINNING OF MONTH/YEAR:			
U.I. TAXABLE ACCOUNTS	3,088,785,622.91	3,152,504,720.62	3,025,371,200.23
BALANCING ACCOUNT	<u>(1,801,984,297.44)</u>	<u>(1,792,807,841.51)</u>	<u>(1,920,053,262.30)</u>
TOTAL BALANCE	1,286,801,325.47	1,359,696,879.11	1,105,317,937.93
<b>INCREASES:</b>			
TAX RECEIPTS/RFB PAID	210,101,787.18	244,360,075.39	182,476,029.75
ACCRUED REVENUES	5,606,185.75	7,285,810.50	1,950,015.07
SOLVENCY PAID	93,348,329.23	106,775,450.24	87,580,412.28
FORFEITURES	0.00	0.00	409.00
BENEFIT CONCEALMENT INCOME	263,521.45	1,156,970.09	746,131.15
INTEREST EARNED ON TRUST FUND	0.00	5,855,606.03	4,430,818.37
FUTA TAX CREDITS	0.00	0.00	654.00
OTHER CHANGES	31,926.39	232,786.61	(147,715.37)
TOTAL INCREASES	<u>309,351,750.00</u>	<u>365,666,698.86</u>	<u>277,036,754.25</u>
<b>DECREASES:</b>			
TAXABLE EMPLOYER DISBURSEMENTS	26,914,764.75	126,393,383.63	100,258,359.68
QUIT NONCHARGE BENEFITS	3,994,633.75	17,970,578.19	9,012,578.85
OTHER DECREASES	65,800.49	9,950,163.84	3,336,305.45
OTHER NONCHARGE BENEFITS	992,599.49	6,864,175.32	29,962,911.83
TOTAL DECREASES	<u>31,967,798.48</u>	<u>161,178,300.98</u>	<u>142,570,155.81</u>
BALANCE AT END OF MONTH/YEAR:			
RESERVE FUND BALANCE	2,821,029,681.33	2,821,029,681.33	2,657,896,042.74
BALANCING ACCOUNT	<u>(1,256,844,404.34)</u>	<u>(1,256,844,404.34)</u>	<u>(1,418,111,506.37)</u>
TOTAL BALANCE (9) (10) (11) (12)	<u><u>1,564,185,276.99</u></u>	<u><u>1,564,185,276.99</u></u>	<u><u>1,239,784,536.37</u></u>

9. This balance differs from the cash balance related to taxable employers of \$1,502,509,209 because of non-cash accrual items.

10. \$9,494,534 of this balance is set up in the Trust Fund in two subaccounts to be used for administration purposes and is not available to pay benefits.

11. \$1,272,730 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

12. \$11,621,717 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-14/21 and 75% of the benefits paid for reimbursable employers for UI Weeks 15/21-36/21 per 2103 of the CARES Act, the Continued Assistance Act, and the American Rescue Act.

**DEPARTMENT OF WORKFORCE DEVELOPMENT  
U.I. TREASURER'S REPORT  
RECEIPTS AND DISBURSEMENTS STATEMENT  
FOR THE MONTH ENDED 04/30/2023**

<b>RECEIPTS</b>	<b>CURRENT ACTIVITY</b>	<b>YEAR TO DATE</b>	<b>PRIOR YEAR TO DATE</b>
TAX RECEIPTS/RFB	\$210,101,787.18	\$244,360,075.39	\$182,476,029.75
SOLVENCY	93,348,329.23	106,775,450.24	87,580,412.28
ADMINISTRATIVE FEE	28.79	141.82	139.68
ADMINISTRATIVE FEE - PROGRAM INTEGRITY	2,152,072.44	2,493,661.04	2,369,372.21
UNUSED CREDITS	4,472,159.62	5,402,704.65	1,170,530.92
GOVERNMENTAL UNITS	674,529.29	3,085,414.48	3,301,466.37
NONPROFITS	561,387.03	2,624,595.95	3,374,144.50
INTERSTATE CLAIMS (CWC)	67,077.95	833,467.92	776,805.64
ERROR SUSPENSE	226,162.63	240,622.69	506,518.25
FEDERAL PROGRAMS RECEIPTS	(1,161,858.00)	(8,544,974.44)	25,033,001.04
OVERPAYMENT COLLECTIONS	2,768,508.66	14,373,254.73	16,940,954.63
FORFEITURES	0.00	0.00	409.00
BENEFIT CONCEALMENT INCOME	263,521.45	1,156,970.09	746,131.15
EMPLOYER REFUNDS	(859,805.09)	(5,929,120.32)	(78,963,822.45)
COURT COSTS	71,553.93	270,697.00	147,296.81
INTEREST & PENALTY	372,994.86	1,108,602.30	1,102,416.22
CARD PAYMENT SERVICE FEE	4,062.69	11,398.56	10,140.37
BENEFIT CONCEALMENT PENALTY-PROGRAM INTEGRITY	377,325.45	1,718,511.56	1,074,869.52
MISCLASSIFIED EMPLOYEE PENALTY-PROG INTEGRITY	18,532.15	28,732.15	0.00
LEVY NONCOMPLIANCE PENALTY-PROGRAM INTEGRITY	3,553.10	10,008.39	3,037.64
SPECIAL ASSESSMENT FOR INTEREST	760.75	3,667.86	3,509.48
LOST WAGES ASSISTANCE (LWA) ADMIN	0.00	0.00	29,188.00
INTEREST EARNED ON U.I. TRUST FUND BALANCE	0.00	5,855,606.03	4,430,818.37
MISCELLANEOUS	10,478.27	81,877.31	22,340.75
<b>TOTAL RECEIPTS</b>	<b>\$313,473,162.38</b>	<b>\$375,961,365.40</b>	<b>\$252,135,710.13</b>
<b>DISBURSEMENTS</b>			
CHARGES TO TAXABLE EMPLOYERS	\$30,224,548.32	\$139,389,012.88	\$117,484,697.92
NONPROFIT CLAIMANTS	593,889.13	2,287,624.80	881,963.21
GOVERNMENTAL CLAIMANTS	636,108.66	2,867,986.96	89,343.73
INTERSTATE CLAIMS (CWC)	342,581.21	1,594,664.52	1,301,256.49
QUITS	3,994,633.75	17,970,578.19	9,012,578.85
OTHER NON-CHARGE BENEFITS	939,587.69	6,827,756.17	(37,501,763.36)
CLOSED EMPLOYERS	1,855.62	535.56	(8,888.55)
FEDERAL PROGRAMS			
FEDERAL EMPLOYEES (UCFE)	103,161.83	551,025.19	680,958.20
EX-MILITARY (UCX)	18,543.03	79,843.25	145,718.98
TRADE ALLOWANCE (TRA/TRA-NAFTA)	51,247.68	234,546.68	583,249.86
DISASTER UNEMPLOYMENT (DUA)	0.00	0.00	0.00
WORK-SHARE (STC)	(4,873.96)	(2,481,268.87)	971,530.16
FEDERAL PANDEMIC UC (FPUC)	(970,685.11)	(4,181,782.45)	7,249,510.41
LOST WAGES ASSISTANCE \$300 ADD-ON (LWA)	(68,933.24)	(298,511.88)	3,453,130.01
MIXED EARNERS UC (MEUC)	(300.00)	800.00	29,600.00
PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA)	(213,912.02)	(750,644.02)	2,882,162.71
PANDEMIC EMERGENCY UC (PEUC)	(233,123.63)	(1,136,733.97)	5,583,085.41
PANDEMIC FIRST WEEK (PFW)	(5,177.44)	79,059.82	712,335.56
EMER UC RELIEF REIMB EMPL (EUR)	(42,193.50)	(65,819.82)	2,173,186.44
2003 TEMPORARY EMERGENCY UI (TEUC)	(514.32)	(7,041.15)	(5,514.53)
FEDERAL ADD'L COMPENSATION \$25 ADD-ON (FAC)	(13,563.08)	(59,105.94)	(64,720.15)
FEDERAL EMERGENCY UI (EUC)	(134,505.82)	(474,246.93)	(584,847.37)
FEDERAL EXTENDED BENEFITS (EB)	(4,716.49)	(29,350.30)	10,200.56
FEDERAL EMPLOYEES EXTENDED BEN (UCFE EB)	0.00	0.00	0.00
FEDERAL EX-MILITARY EXTENDED BEN (UCX EB)	0.00	0.00	(147.52)
INTERSTATE CLAIMS EXTENDED BENEFITS (CWC EB)	0.00	(2,090.41)	3,111.90
INTEREST & PENALTY	276,567.40	982,680.40	945,732.79
CARD PAYMENT SERVICE FEE TRANSFER	2,253.42	9,381.54	8,386.56
PROGRAM INTEGRITY	918,751.93	1,893,927.05	1,245,386.44
SPECIAL ASSESSMENT FOR INTEREST	2,907.11	7,600.77	7,032.96
COURT COSTS	96,878.40	249,861.30	119,816.79
ADMINISTRATIVE FEE TRANSFER	59.83	173.64	104.06
LOST WAGES ASSISTANCE (LWA) ADMIN TRANSFER	0.00	0.00	29,188.00
FEDERAL WITHHOLDING	(92,418.00)	(124,454.82)	25,692.00
STATE WITHHOLDING	2,129,144.50	770,578.52	2,271,613.14
REED ACT & ARRA SPECIAL ADMIN EXPENDITURES	0.00	0.00	1,021,900.43
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	9,704,822.76	0.00
FEDERAL LOAN REPAYMENTS	0.00	0.00	(654.00)
<b>TOTAL DISBURSEMENTS</b>	<b>\$38,547,802.90</b>	<b>\$175,891,409.44</b>	<b>\$120,755,938.09</b>
<b>NET INCREASE(DECREASE)</b>	<b>274,925,359.48</b>	<b>200,069,955.96</b>	<b>131,379,772.04</b>
BALANCE AT BEGINNING OF MONTH/YEAR	\$1,280,782,912.39	\$1,355,638,315.91	\$1,121,533,802.25
BALANCE AT END OF MONTH/YEAR	<b>\$1,555,708,271.87</b>	<b>\$1,555,708,271.87</b>	<b>\$1,252,913,574.29</b>



DEPARTMENT OF WORKFORCE DEVELOPMENT  
U.I. TREASURER'S REPORT  
CASH ANALYSIS  
FOR THE MONTH ENDED April 30, 2023

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BEGINNING U.I. CASH BALANCE	\$1,231,174,420.18	\$1,303,839,732.39	\$1,048,002,601.08
INCREASES:			
TAX RECEIPTS/RFB PAID	210,101,787.18	244,360,075.39	182,476,029.75
U.I. PAYMENTS CREDITED TO SURPLUS	93,200,799.80	109,632,095.85	87,791,205.49
INTEREST EARNED ON TRUST FUND	0.00	5,855,606.03	4,430,818.37
FUTA TAX CREDITS	0.00	0.00	654.00
TOTAL INCREASE IN CASH	<u>303,302,586.98</u>	<u>359,847,777.27</u>	<u>274,698,707.61</u>
TOTAL CASH AVAILABLE	<u>1,534,477,007.16</u>	<u>1,663,687,509.66</u>	<u>1,322,701,308.69</u>
DECREASES:			
TAXABLE EMPLOYER DISBURSEMENTS	26,914,764.75	126,393,383.63	100,258,359.68
BENEFITS CHARGED TO SURPLUS	5,095,227.23	25,145,914.41	39,116,709.26
TOTAL BENEFITS PAID DURING PERIOD	<u>32,009,991.98</u>	<u>151,539,298.04</u>	<u>139,375,068.94</u>
REED ACT EXPENDITURES	0.00	0.00	1,021,900.43
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	9,704,822.76	0.00
EMER UC RELIEF REIMB EMPL EXPENDITURES	(42,193.50)	(65,819.82)	2,173,186.44
ENDING U.I. CASH BALANCE (13) (14) (15) (16)	<u><u>1,502,509,208.68</u></u>	<u><u>1,502,509,208.68</u></u>	<u><u>1,180,131,152.88</u></u>

13. \$284,585 of this balance was set up in 2015 in the Trust Fund as a Short-Time Compensation (STC) subaccount to be used for Implementation and Improvement of the STC program and is not available to pay benefits.

14. \$9,209,949 of this balance was set up in 2020 in the Trust Fund as an Emergency Admin Grant (EUISAA) subaccount to be used for administration of the Unemployment Compensation Program and is not available to pay benefits.

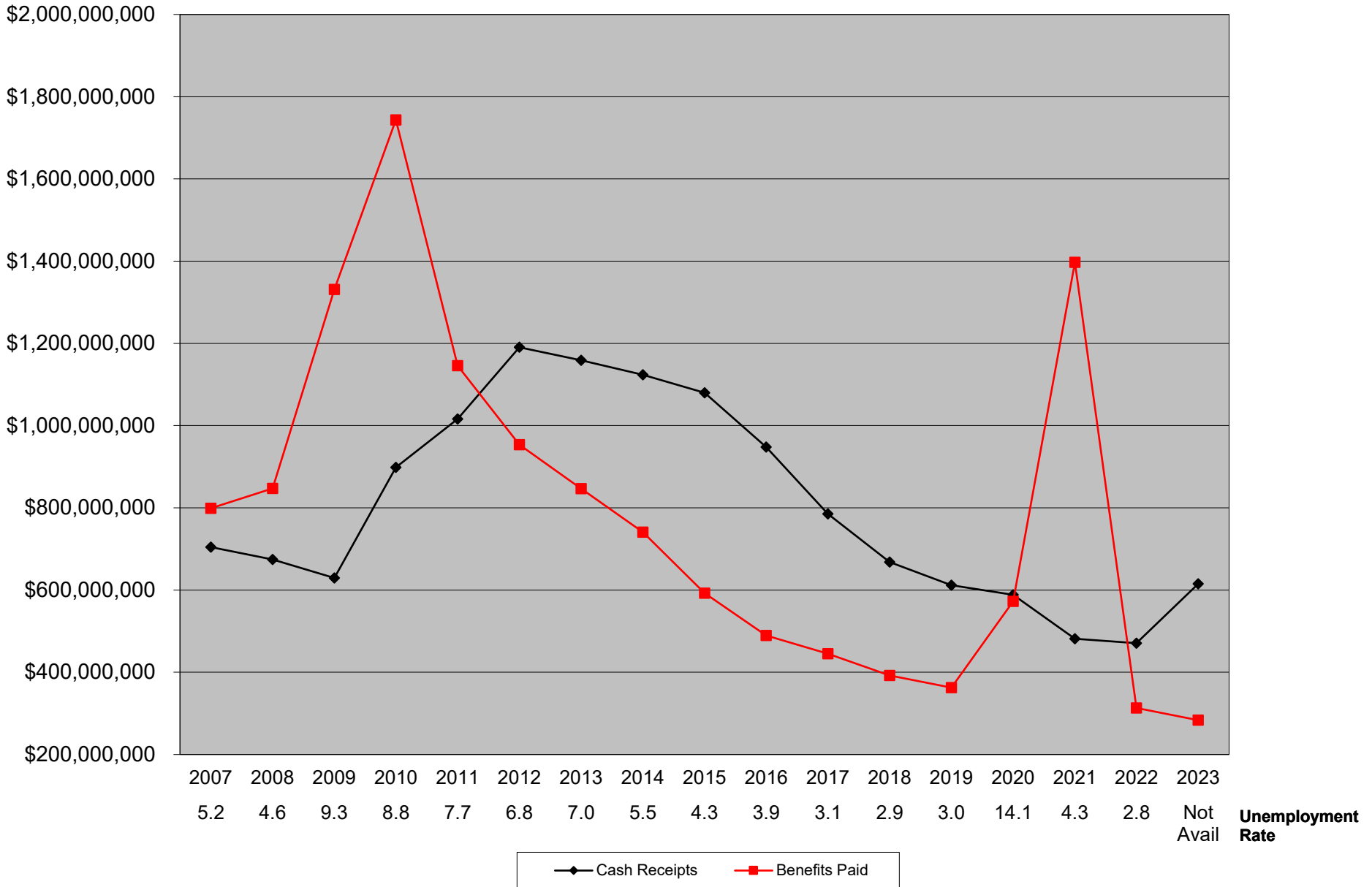
15. \$1,272,730 of this balance is the remaining amount set aside for charging of benefits financed by Reimbursable Employers in cases of Identity Theft.

16. \$11,621,717 of this balance is Emergency Unemployment Compensation Relief (EUR) reserved exclusively for funding 50% of the benefits paid for Reimbursable Employers for UI Weeks 12/20-14/21 and 75% of the benefits paid for reimbursable employers for UI Weeks 15/21-36/21 per 2103 of the CARES Act, the Continued Assistance Act, and the American Rescue Act.

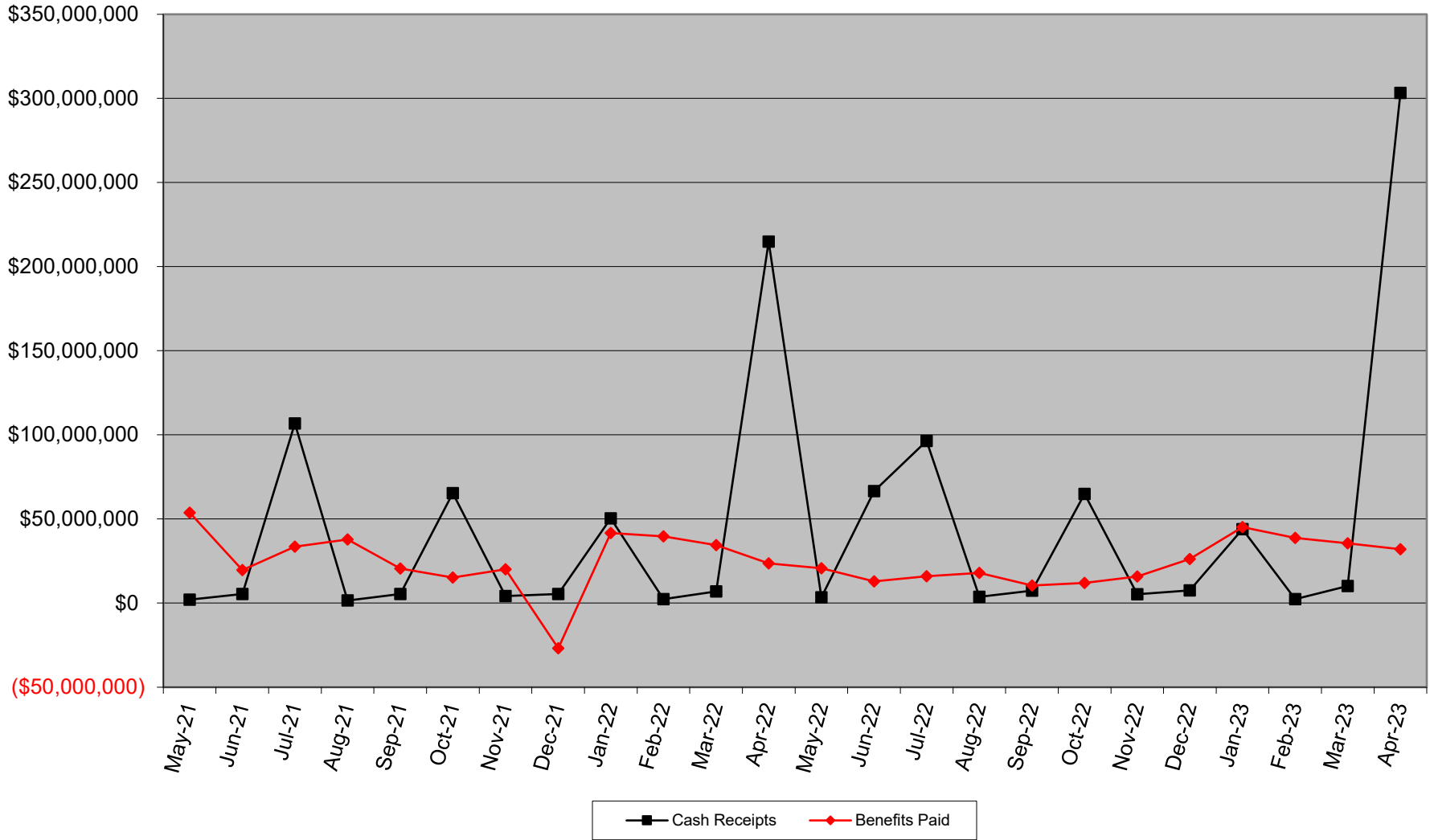
BUREAU OF TAX AND ACCOUNTING  
U.I. TREASURER'S REPORT  
BALANCING ACCT SUMMARY  
FOR THE MONTH ENDED April 30, 2023

	<u>CURRENT ACTIVITY</u>	<u>YEAR TO DATE ACTIVITY</u>	<u>PRIOR YTD ACTIVITY</u>
BALANCE AT THE BEGINNING OF THE MONTH/YEAR	(\$1,406,624,987.61)	(\$1,399,163,452.19)	(\$1,527,719,203.28)
INCREASES:			
U.I. PAYMENTS CREDITED TO SURPLUS:			
SOLVENCY PAID	93,348,329.23	106,775,450.24	87,580,412.28
FORFEITURES	0.00	0.00	409.00
OTHER INCREASES	<u>(147,529.43)</u>	<u>2,856,645.61</u>	<u>210,384.21</u>
U.I. PAYMENTS CREDITED TO SURPLUS SUBTOTAL	93,200,799.80	109,632,095.85	87,791,205.49
TRANSFERS BETWEEN SURPLUS ACCTS	(43,251.11)	(59,804.99)	43,431.69
INTEREST EARNED ON TRUST FUND	0.00	5,855,606.03	4,430,818.37
FUTA TAX CREDITS	<u>0.00</u>	<u>0.00</u>	<u>654.00</u>
TOTAL INCREASES	93,157,548.69	115,427,896.89	92,266,109.55
DECREASES:			
BENEFITS CHARGED TO SURPLUS:			
QUITS	3,994,633.75	17,970,578.19	9,012,578.85
OTHER NON-CHARGE BENEFITS	<u>1,100,593.48</u>	<u>7,175,336.22</u>	<u>30,104,130.41</u>
BENEFITS CHARGED TO SURPLUS SUBTOTAL	5,095,227.23	25,145,914.41	39,116,709.26
REED ACT EXPENDITURES	0.00	0.00	1,021,900.43
EMERGENCY ADMIN GRANT-EUISAA 2020 EXP	0.00	9,704,822.76	0.00
EMER UC RELIEF REIMB EMPL EXPENDITURES	<u>(42,193.50)</u>	<u>(65,819.82)</u>	<u>2,173,186.44</u>
BALANCE AT THE END OF THE MONTH/YEAR	<u><u>(1,318,520,472.65)</u></u>	<u><u>(1,318,520,472.65)</u></u>	<u><u>(1,477,764,889.86)</u></u>

## Cash Activity Related to Taxable Employers with WI Unemployment Rate (for all years from May to April)

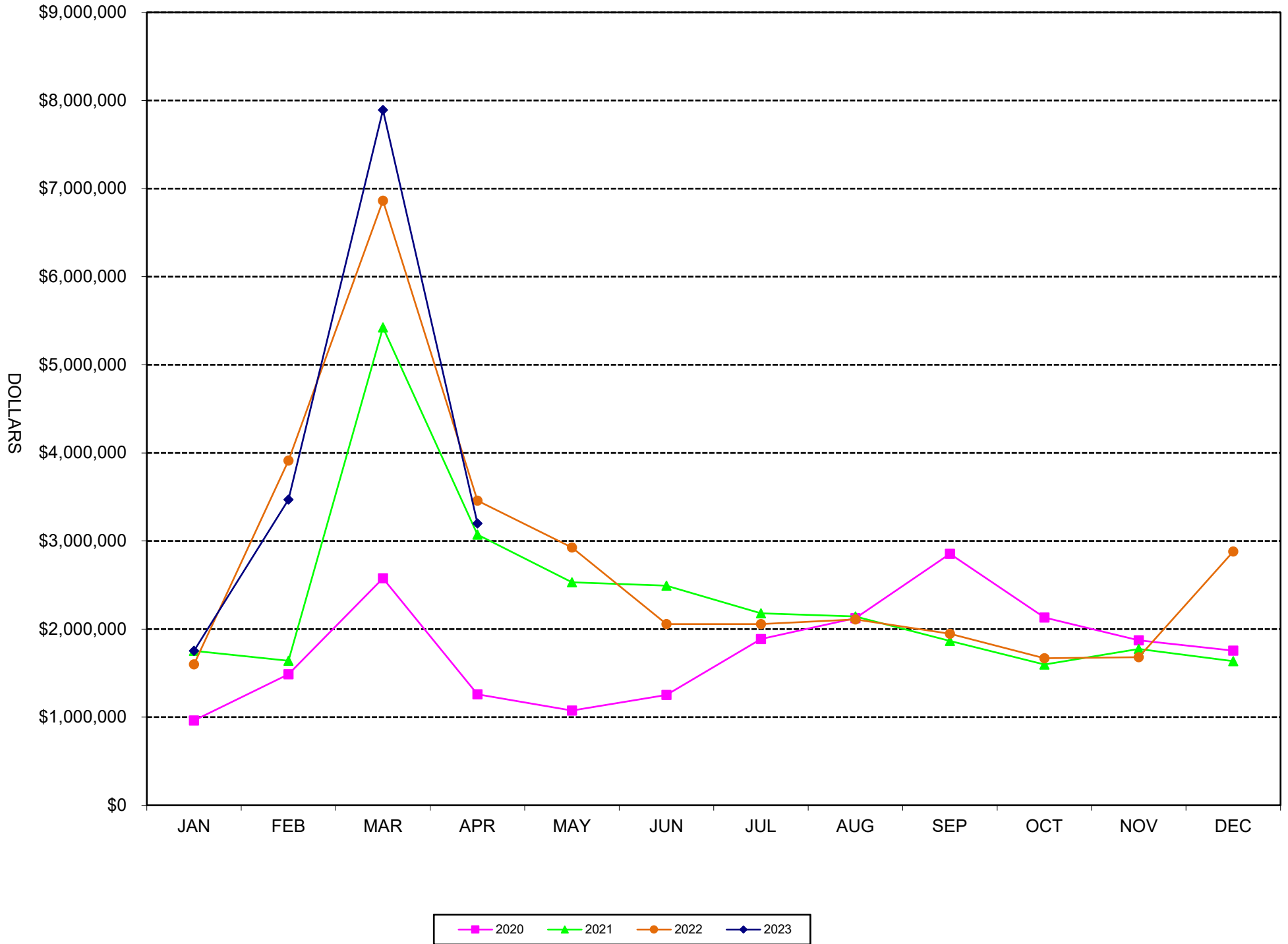


### Cash Activity Related to Taxable Employers - Most Recent 24 Months Excluding FUTA Tax Credits

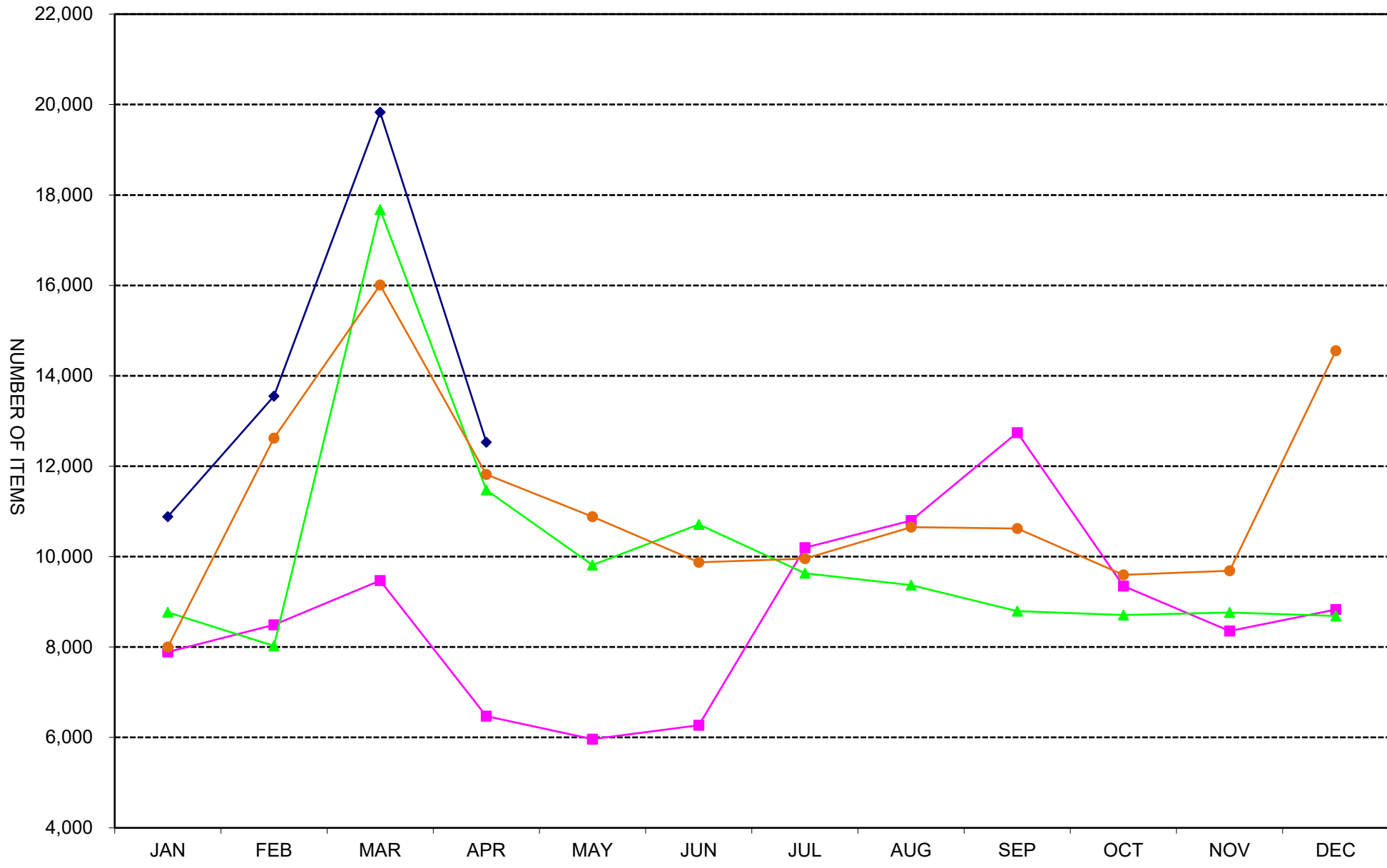


# MONTHLY OVERPAYMENT CASH RECEIPTS

(by dollar amount)

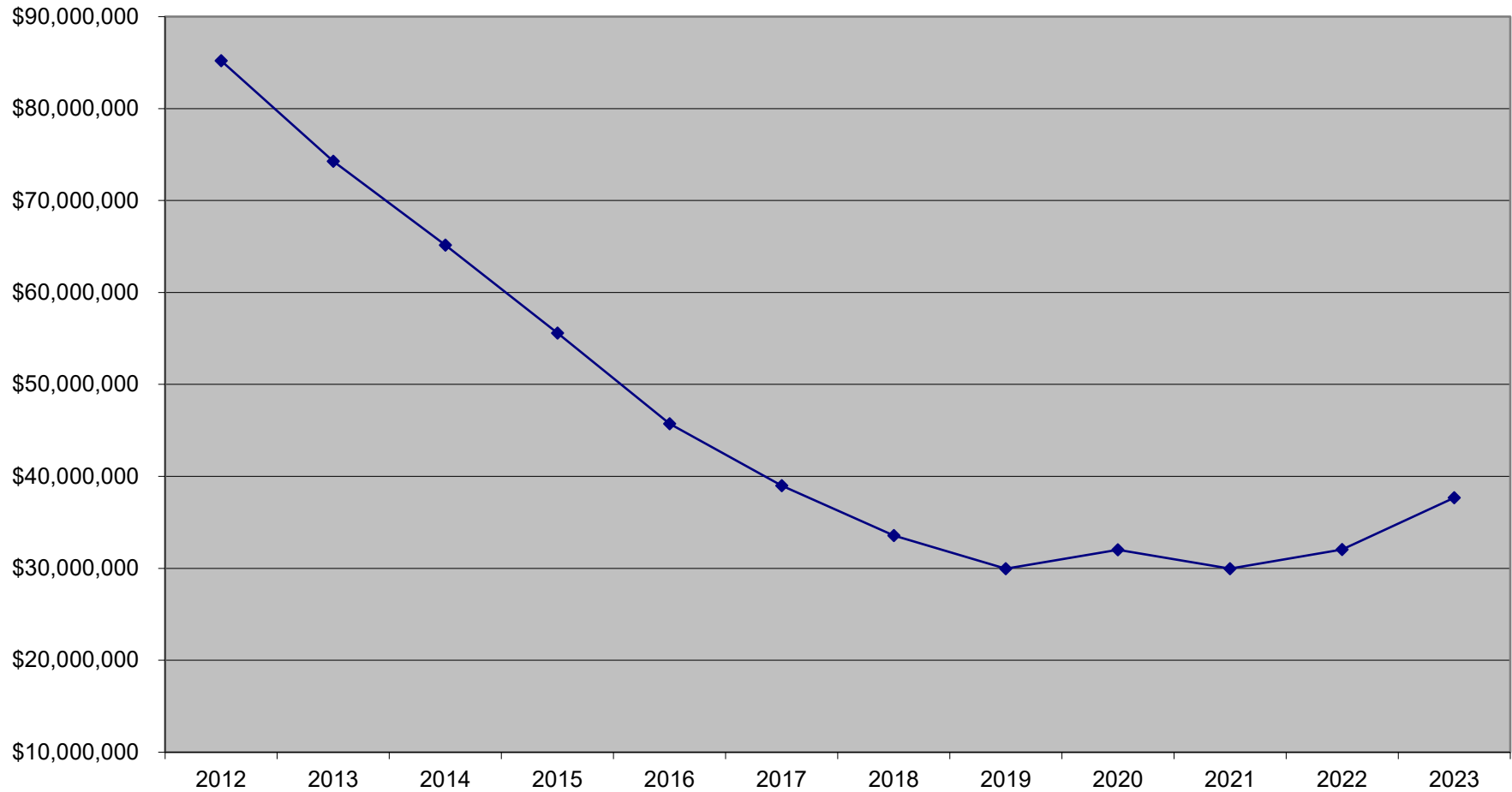


# MONTHLY OVERPAYMENT CASH RECEIPTS (by number of items)



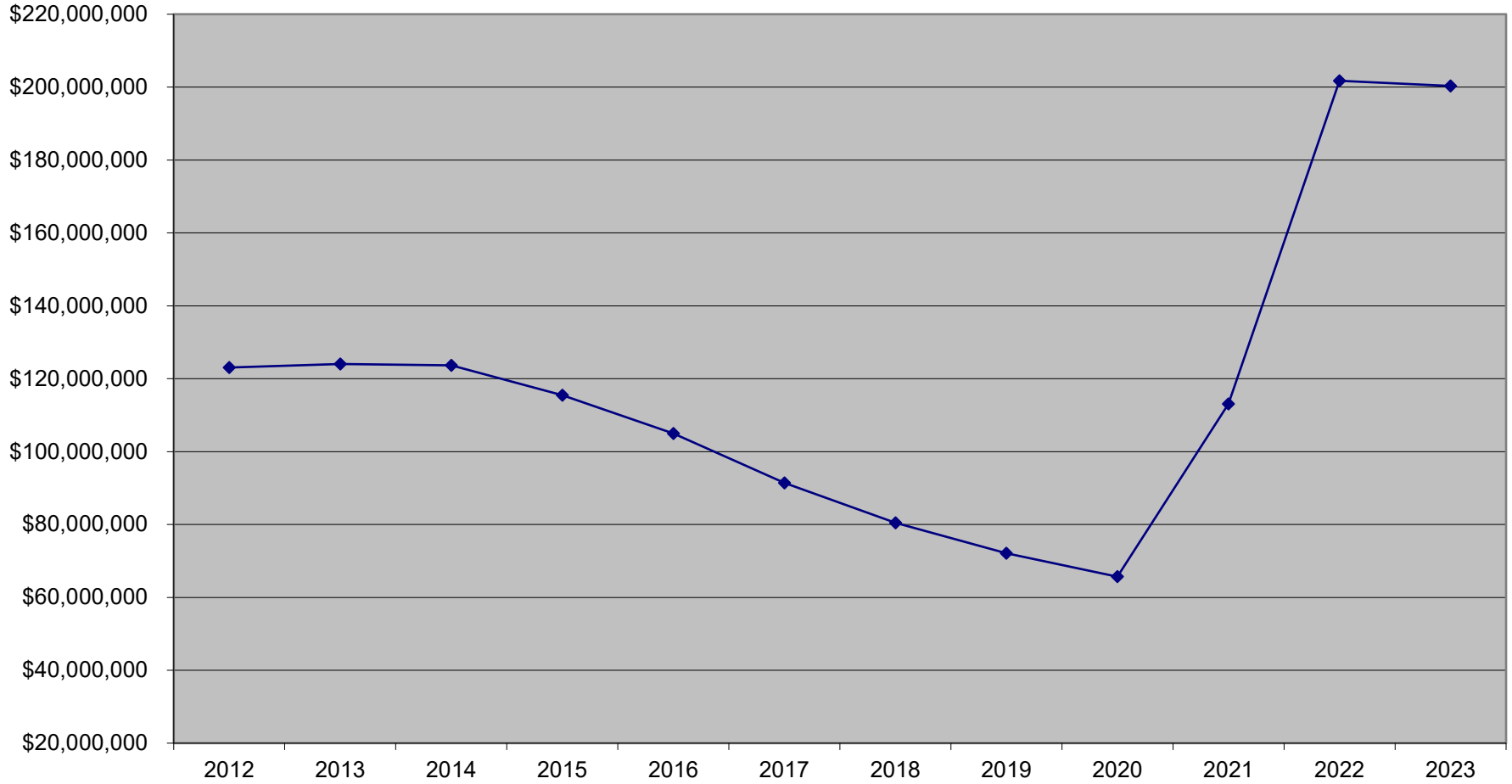
■ 2020 ▲ 2021 ● 2022 ◆ 2023

**TOTAL TAXABLE EMPLOYER RFB & SOLVENCY RECEIVABLES**  
(for all years as of April)



Source: Monthly Balance Sheet

**TOTAL BENEFIT OVERPAYMENT RECEIVABLES**  
**(for all years as of April)**



**Source: Monthly Balance Sheet**





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**DISTRICT I**

May 2, 2023

To:

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Circuit Court Judge  
Electronic Notice

William W. Cassel  
Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Appeals Processing  
Division  
Electronic Notice

Andrew John Rubsam  
Electronic Notice

Pablito Vega  
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

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2022AP1140

Pablito Vega v. LIRC (L.C. # 2021CV7866)

Before Brash, C.J., Donald, P.J., and Dugan, J.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Pablito Vega, *pro se*, appeals from an order of the circuit court dismissing his complaint seeking judicial review of a decision by the Labor and Industry Review Commission (LIRC), which affirmed the decision by the Department of Workforce Development (DWD) denying Vega Pandemic Unemployment Assistance (PUA) benefits. The matter was dismissed on the grounds that Vega failed to timely serve LIRC with the summons and complaint. Based upon

our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. § 809.21(1) (2021-22).<sup>1</sup> We summarily affirm.

Vega applied for PUA benefits that were available for independent contractors whose ability to work was negatively impacted by the COVID-19 pandemic. The DWD found that Vega was ineligible for the benefits. Vega appealed that decision to LIRC, which affirmed the decision on December 10, 2021.

Vega sought judicial review of that decision. Pursuant to WIS. STAT. § 108.09(7)(c), an action for judicial review must be commenced within thirty days of the date of LIRC's order by filing and serving a summons and complaint. Vega filed a summons and complaint with the circuit court on December 30, 2021; however, he did not serve LIRC until January 13, 2022—thirty-four days after LIRC issued its decision. Therefore, LIRC filed a motion to dismiss Vega's complaint on the grounds that it had not been timely served. The circuit court agreed and dismissed the complaint.<sup>2</sup> Vega appeals.

Our review requires us to construe WIS. STAT. § 108.09(7), which provides for judicial review of LIRC decisions. “Construction of a statute in relation to a particular set of facts is a question of law” that we review *de novo*. *See Milwaukee Cnty. v. LIRC*, 142 Wis. 2d 307, 310, 418 N.W.2d 35 (Ct. App. 1987) (citation omitted).

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

<sup>2</sup> With this action, Vega also filed a petition for writ of mandamus in the circuit court seeking records from the DWD; that petition was also dismissed. Vega does not challenge that dismissal on appeal, and we do not address it. *See A.O. Smith Corp. v. Allstate Ins. Cos.*, 222 Wis. 2d 475, 493, 588 N.W.2d 285 (Ct. App. 1998) (“when a party fails to argue an issue in its main appeal brief, the appellate court may treat the issue as having been abandoned, even though the issue was presented to the [circuit] court”).

WISCONSIN STAT. § 108.09(7)(c)1. states that a party may “commence an action against [LIRC] for judicial review” of an order by filing a summons and complaint with the circuit court and serving that complaint “[w]ithin 30 days after the date of [the] order made by [LIRC].” Put another way, this section provides for the competency of the circuit court to review an order issued by LIRC. See *Vidal v. LIRC*, 2002 WI 72, ¶15, 253 Wis. 2d 426, 645 N.W.2d 870.

The thirty-day time requirement for service is pivotal here, because unless the matter is commenced “within the time and in the manner prescribed” by the statute, the circuit court does not have competency to proceed. *Id.* (citation omitted); see also *Schiller v. DILHR*, 103 Wis. 2d 353, 355, 309 N.W.2d 5 (Ct. App. 1981) (“[s]trict adherence to the statutory requirements is necessary” for the circuit court to have competency to review LIRC’s decision).

In other words, the failure to comply with the statutory timeline must result in the dismissal of an action for a lack of competency of the circuit court. See *Schiller*, 103 Wis. 2d. at 354. In fact, this court has recognized that “[t]o dismiss an appeal because it comes one day late may seem harsh. However, if statutory time limits to obtain appellate jurisdiction are to be meaningful they must be unbending.” *Currier v. DOR*, 2006 WI App 12, ¶23, 288 Wis. 2d 693, 709 N.W.2d 520 (citation omitted).

As noted above, Vega concedes that he did not comply with the statutory timeframe for serving his complaint on LIRC. As a result, the circuit court did not have competency to proceed in this matter. See *Vidal*, 253 Wis. 2d 426, ¶15. We therefore affirm its order dismissing Vega’s complaint.

Upon the foregoing,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*

**D23-01**

**Amend Social Security Disability Insurance Disqualification**

Date: April 20, 2023

Proposed by: DWD

Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE  
Amend Social Security Disability Insurance Disqualification**

**1. Description of Proposed Change**

Currently, recipients of federal Social Security Disability Insurance (“SSDI”) payments are ineligible for unemployment insurance benefits under s. 108.04(12)(f). Recipients of pension payments are eligible for unemployment insurance benefits, but the unemployment benefit is reduced by the pension payment (s. 108.05(7)).

The Governor’s Budget Bill (2023 AB 43 / 2023 SB 70) proposes to amend the prohibition on receipt of UI for SSDI recipients by reducing the amount of weekly UI benefits by the proportionate amount of the claimant’s SSDI payment.

Under this proposal, a claimant who receives \$1,000 monthly in SSDI and would otherwise be eligible for \$300 weekly in UI would receive a weekly UI payment of \$69.<sup>1</sup>

**2. Proposed Statutory Changes**

**Section 108.04 (2) (h) of the statutes is amended to read:**

A claimant shall, when the claimant first files a claim for benefits under this chapter and during each subsequent week the claimant files for benefits under this chapter, inform the department whether he or she is receiving social security disability insurance payments, as defined in ~~sub. (12) (f)~~ s. 108.05 (7m) (b). If the claimant is receiving social security disability insurance payments, the claimant shall, in the manner prescribed by the department, report to the department the amount of the social security disability insurance payments.

---

<sup>1</sup> This calculation is preliminary and subject to revision.

**D23-01**

**Amend Social Security Disability Insurance Disqualification**

**Section 108.04 (12) (f) 1m. and 2m. of the statutes are renumbered 108.05 (7m) (a) and (b) and amended to read:**

(a) The intent of the legislature in enacting this ~~paragraph~~ subsection is to prevent the payment of duplicative government benefits for the replacement of lost earnings or income, regardless of an individual's ability to work.

(b) In this ~~paragraph~~ subsection, "social security disability insurance payment" means a payment of social security disability insurance benefits under 42 USC ch. 7 subch. II.

**Section 108.04 (12) (f) 3. of the statutes is repealed.**

**Section 108.04 (12) (f) 4. of the statutes is renumbered 108.05 (7m) (e).**

**Section 108.05 (7m) (title), (c) and (d) of the statutes are created to read:**

(title) SOCIAL SECURITY DISABILITY INSURANCE PAYMENTS.

(c) If a monthly social security disability insurance payment is issued to a claimant, the department shall reduce benefits otherwise payable to the claimant for a given week in accordance with par.

(d). This subsection does not apply to a lump sum social security disability insurance payment in the nature of a retroactive payment or back pay.

(d) The department shall allocate a monthly social security disability insurance payment by allocating to each week the fraction of the payment attributable to that week.

**Section 108.05 (9) of the statutes is amended to read:**

(9) ROUNDING OF BENEFIT AMOUNTS. Notwithstanding sub. (1), benefits payable for a week of unemployment as a result of applying sub. (1m), (3) ~~or~~, (7), or (7m) or s. 108.04 (11) or (12), 108.06 (1), 108.13 (4) or (5) or 108.135 shall be rounded down to the next lowest dollar.

**D23-01**

**Amend Social Security Disability Insurance Disqualification**

**Section 108.05 (10) (intro.) of the statutes is amended to read:**

(10) DEDUCTIONS FROM BENEFIT PAYMENTS. (intro.) After calculating the benefit payment due to be paid for a week under subs. (1) to ~~(7)~~ (7m), the department shall make deductions from that payment to the extent that the payment is sufficient to make the following payments in the following order:

**3. Effects of Proposed Change**

- a. **Policy:** Under this proposed change, recipients of SSDI may receive UI benefits, but the benefits would be reduced due to the receipt of SSDI benefits.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

**5. Proposed Effective/Applicability Date**

This proposal would take effect on the first Sunday of the 7<sup>th</sup> month beginning after publication.

**D23-01**  
**Amend Social Security Disability Insurance Disqualification**  
**FISCAL ANALYSIS OF PROPOSED LAW CHANGE**

**Summary of Proposal:**

The proposal repeals the prohibition that allows an otherwise eligible claimant to receive both federal social security disability benefits (SSDI) and Unemployment Insurance (UI) benefits for the same period, and instead requires DWD to reduce a claimant's UI benefit payments by the amount of SSDI payments. Under the proposal, DWD will reduce the amount of weekly UI benefits by the proportionate amount of the claimant's SSDI payment.

**UI Trust Fund Impact:**

There is not expected to be any measurable impact to the UI Trust Fund.

**IT and Administrative Impact:**

This proposal would have an estimated one-time IT impact of \$27,946 and a one-time administrative impact of \$8,384. There are no ongoing administrative impacts to the UI program.

**Trust Fund Methodology:**

SSDI recipients in general have strict limits on the amount of income they may earn and continue to receive SSDI. This maximum amount ranges from \$1,260 per month for disabled individuals to \$2,110 per month for blind individuals. Assuming the individuals meet the other qualifying requirements, this would lead to a weekly benefit rate of either \$151 or \$253 per week. The average SSDI payment in Wisconsin was \$1,443 per month in 2020. Treating SSDI payments as employer contributed pension payments, each weekly benefit payment would be reduced on average by \$166 per week. For most SSDI claimants, this likely would completely offset any UI benefit available. While certain individuals would be eligible for UI, most SSDI recipients would not qualify for any UI payments. There is not expected to be a measurable impact on UI benefits or the UI Trust Fund.



**D23-02**  
**Worker Misclassification Penalties**

Date: April 20, 2023  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE**  
**Worker Misclassification Penalties**

**1. Description of Proposed Change**

Administrative and criminal penalties were created, as part of the 2015-2016 UIAC Agreed Bill, for employers who intentionally misclassify their workers as independent contractors. The current penalties only apply to construction employers and are:

1. \$500 administrative penalty for each employee who is misclassified, but not to exceed \$7,500 per incident.
2. \$1,000 criminal fine for each employee who is misclassified, subject to a maximum fine of \$25,000 for each violation, but only if the employer has previously been assessed a administrative penalty for misclassified workers.
3. \$1,000 administrative penalty for each individual coerced to adopt independent contractor status, up to \$10,000 per calendar year.

The administrative penalties are deposited into the Department's program integrity fund, which is used, in part, to fund the costs of staff who investigate employee classification.

The Joint Task Force on Payroll Fraud and Worker Misclassification recommended that the penalties for intentional worker misclassification be structured to deter repeat violations.<sup>1</sup> The Governor's Budget Bill (2023 AB 43 / 2023 SB 70) proposes to amend the administrative penalties statutes by having the penalties potentially apply to all employers. The Bill also eliminates the \$7,500 and \$10,000 caps on the administrative penalties and doubles the penalties for subsequent violations. The Bill amends the criminal penalties to potentially apply to any employer.

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<sup>1</sup> [Joint Task Force on Payroll Fraud and Worker Misclassification 2020 Report](#), p. 10.

**D23-02**  
**Worker Misclassification Penalties**

**2. Proposed Statutory Changes<sup>2</sup>**

**108.221 (1) (a) of the statutes is renumbered 108.221 (1) (a) (intro.) and amended to read:**

Any employer ~~described in s. 108.18 (2) (c) or engaged in the painting or drywall finishing of buildings or other structures~~ who knowingly and intentionally provides false information to the department for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee shall, for each incident, be assessed a penalty by the department as follows:

1. For each act occurring before the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$500 for each employee who is misclassified, ~~but not to exceed \$7,500 per incident.~~

**Section 108.221 (1) (a) 2. of the statutes is created to read:**

For each act occurring after the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$1,000 for each employee who is misclassified.

**108.221 (2) of the statutes is renumbered 108.221 (2) (intro.) and amended to read:**

Any employer ~~described in s. 108.18 (2) (c) or engaged in the painting or drywall finishing of buildings or other structures~~ who, through coercion, requires an individual to adopt the status of a nonemployee shall be assessed a penalty by the department as follows:

- (a) For each act occurring before the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$1,000 for each individual so coerced, ~~but not to exceed \$10,000 per calendar year.~~

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<sup>2</sup> Subject to revision to ensure cross-references are corrected.

**D23-02**  
**Worker Misclassification Penalties**

**Section 108.221 (2) (b) of the statutes is created to read:**

For each act occurring after the date of the first determination of a violation of this subsection, the employer shall be assessed a penalty in the amount of \$2,000 for each individual so coerced.

**108.24 (2m) of the statutes is amended to read:**

Any employer ~~described in s. 108.18 (2) (c) or engaged in the painting or drywall finishing of buildings or other structures~~ who, after having previously been assessed an administrative penalty by the department under s. 108.221 (1), knowingly and intentionally provides false information to the department for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee shall be fined \$1,000 for each employee who is misclassified, subject to a maximum fine of \$25,000 for each violation. The department may, regardless of whether an employer has been subject to any administrative assessment under s. 108.221 or any other penalty or assessment under this chapter, refer violations of this subsection for prosecution by the department of justice or the district attorney for the county in which the violation occurred.

**3. Effects of Proposed Change**

- a. **Policy:** The proposed change will permit the Department to assess administrative penalties against any employer that intentionally misclassifies workers as independent contractors and will increase the amount of the penalties for subsequent violations.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

**D23-02**  
**Worker Misclassification Penalties**

**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

**5. Proposed Effective/Applicability Date**

This proposal would be effective for employees misclassified after the law change is enacted.

**D23-02**  
**Worker Misclassification Penalties**

**FISCAL ANALYSIS OF PROPOSED LAW CHANGE**

**Summary of Proposal:**

Current law requires DWD to assess an administrative penalty against an employer engaged in construction projects or in the painting or drywall finishing of buildings or other structures who knowingly and intentionally provides false information to DWD for the purpose of misclassifying or attempting to misclassify an individual who is an employee of the employer as a nonemployee under the UI law. The penalty under current law is \$500 for each employee who is misclassified, not to exceed \$7,500 per incident. Current law additionally requires DWD to assess an administrative penalty against such an employer who, through coercion, requires an individual to adopt the status of a nonemployee in the amount of \$1,000 for each individual so coerced, but not to exceed \$10,000 per calendar year. Penalties are deposited in the unemployment program integrity fund.

The proposal removes the \$7,500 and \$10,000 limitations on these penalties and provides that the penalties double for each act occurring after the date of the first determination of a violation. The proposal also removes the limitations on the types of employers to which the penalties apply, allowing them to be assessed against any type of employer that violates the above prohibitions.

**UI Trust Fund Impact:**

This proposal is expected to have a positive but indeterminate impact on the Trust Fund because of the incentive for employers to correctly register as an employer and correctly list employees to avoid penalties.

**IT and Administrative Impact:**

Ongoing administrative impact to the UI program is indeterminate.

**D23-03**  
**Discharge for Use of Marijuana**

Date: April 20, 2023  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE**  
**Discharge for Use of Marijuana**

**1. Description of Proposed Change**

Under current state law, the possession of marijuana is illegal. A worker who is discharged from employment may be found ineligible for unemployment insurance benefits on the grounds of misconduct if the worker violates an employer's written controlled substances policy under s. 108.04(5)(a). The use of marijuana may also result in a discharge for substantial fault.

The Governor's Budget Bill (2023 AB 43 / 2023 SB 70) proposes to legalize and regulate marijuana. The Bill also proposes that "misconduct" under s. 108.04(5) and substantial fault under s. 108.04(5g) do not include the employee's use of marijuana off the employer's premises during nonworking hours or a violation of the employer's policy concerning such use, unless termination of the employee because that use is permitted under s. 111.35, as amended by the Budget Bill.

**2. Proposed Statutory Change**

**Section 108.04 (5m) of the statutes is created to read:**

DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5), "misconduct," for purposes of sub. (5), does not include the employee's use of marijuana off the employer's premises during nonworking hours or a violation of the employer's policy concerning such use, unless termination of the employee because of that use is permitted under s. 111.35.

(b) Notwithstanding sub. (5g), "substantial fault," for purposes of sub. (5g), does not include the employee's use of marijuana off the employer's premises during nonworking hours or a violation of the employer's policy concerning such use, unless termination of the employee because of that use is permitted under s. 111.35.

## **D23-03**

### **Discharge for Use of Marijuana**

#### **3. Effects of Proposed Change**

**a. Policy:** The proposal would ensure that a person would not be denied UI benefits for recreational use of marijuana during non-working hours unless termination for that use is permitted under the fair employment law.

**b. Administrative:** Staff would need to be trained on the implementation of this law.

**c. Fiscal:** A fiscal estimate is unavailable.

#### **4. State and Federal Issues**

There are no known federal conformity issues with this proposal. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

#### **5. Proposed Effective/Applicability Date**

This proposal would be effective on the effective date of the legalization of marijuana.

**D23-04**  
**Imposter Penalty**

Date: April 20, 2023  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE**  
**Imposter Penalty**

**1. Description of Proposed Change**

When someone makes a false statement and claims and receives unemployment insurance benefits in the name of another person, the person who filed the claim must repay the benefits and pay an administrative assessment (penalty) in the amount of the overpayment.<sup>1</sup>

However, when someone makes a false statement to attempt to claim benefits in the name of another person but is unsuccessful because the Department discovers the fraud before benefits are paid, there is no penalty available to assess against the imposter.

The Department proposes to create a new \$5,000 penalty to assess against all imposters who make false statements for the purpose of attempting to receive benefits in the name of another person on an initial claim for their own benefit, but who fail to obtain benefits. This penalty would apply to both imposters who fraudulently receive benefits and those who do not receive benefits as a result of their fraudulent claim. The policy reason for this proposal is to deter people from attempting to file false claims using the credentials of another person for their own benefit.

Collection of the current administrative assessment is eliminated. The Department proposes to credit the new \$5,000 penalty to the interest and penalty appropriation.

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<sup>1</sup> [Wis. Stat. § 108.04\(11\)\(cm\)](#).



**D23-04**  
**Imposter Penalty**

**2. Proposed Statutory Changes**

**Section 108.04 (11) (cm) of the statutes is amended to read:**

If any person makes a false statement or representation in order to obtain benefits in the name of another person for their own benefit, the benefits received by that person constitute a benefit overpayment. Such person may, by a determination or decision issued under s. 108.095, be required to repay the amount of the benefits obtained and be assessed an administrative ~~assessment in an additional amount equal to the amount of benefits obtained.~~ penalty of \$5,000.00. A person who makes a false statement or representation on an initial claim to intentionally obtain benefits in the name of another person for their own benefit, but fails to obtain benefits, will be assessed an administrative penalty of \$5,000.00.

**Non-statutory provision:**

(1) The treatment of s. 108.04 (11) (cm) first applies to determinations issued on the effective date of this subsection.

**3. Effects of Proposed Change**

- a. **Policy:** The proposed change is designed to deter people from filing false unemployment claims in the name of another person.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

**D23-04**  
**Imposter Penalty**

**5. Proposed Effective/Applicability Date**

The treatment of section 108.04 (11) (cm) will apply to determinations issued on or after the effective date of the agreed-upon bill.

**D23-04**  
**Imposter Penalty**

**FISCAL ANALYSIS OF PROPOSED LAW CHANGE**

**Summary of Proposal:**

The Department proposes to create a new \$5,000 penalty to assess against all imposters who make false statements for the purpose of attempting to receive benefits in the name of another person on an initial claim for their own benefit. This penalty would apply to imposters who fraudulently receive benefits as an additional penalty for those individuals.<sup>2</sup> The new penalty would also apply to those who do not receive unemployment benefits as a result of their fraudulent claim. Further, the Department proposes to eliminate the current administrative assessment in an amount equal to the benefits overpaid as a result of fraudulent claims.

The penalty revenue will be credited to the interest and penalty appropriation.

**UI Trust Fund Impact:**

Since the penalty revenue is credited to the interest and penalty appropriation, there is no measurable UI Trust Fund impact.

**IT and Administrative Impact:**

There is no IT cost for this proposal. There is an estimated \$560 administrative cost to implement.

**UI Trust Fund Methodology:**

There is no measurable impact on the UI Trust Fund. It is expected that the increased fine will discourage identity fraud, but the impact cannot be estimated.

**IT and Administrative Impact Methodology:**

It is estimated that there would be 10 hours of administrative work updating documents and materials to reflect the new penalty. This is estimated to cost \$560. The new penalty will be expected to use the current process for establishing identity fraud penalty so there is no expected IT cost.

The penalty is expected to be assessed on fewer than ten people annually.

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<sup>2</sup> If any person makes a false statement or representation in order to obtain benefits in the name of another person, the benefits received by that person constitute a benefit overpayment. Under current law, such person may, by a determination or decision issued under s. 108.095, be required to repay the amount of the benefits obtained and be assessed an administrative assessment in an additional amount equal to the amount of benefits obtained.

**D23-05**  
**Electronic Communication and Filing**

Date: April 20, 2023  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE**  
**Electronic Communication and Filing**

**1. Description of Proposed Change**

Employers must file quarterly tax and wage reports showing the names, Social Security numbers, and wages paid to their employees. Employers with at least 25 employees must file those reports electronically, but all employers may file electronically. Electronic filing is more efficient for employers, ensures that reports are not lost in the mail, and reduces administrative costs for the Department. Employers who make contribution payments of at least \$10,000 annually must make those payments by electronic funds transfer but any employer may do so. Currently, about 96% of employers file their tax and wage reports electronically and pay their contributions electronically. Current law also permits the Department to electronically communicate with those who opt for that form of communication—though not all Department communication can currently be sent electronically.

The Department proposes that the electronic filing, electronic payment, and electronic communication provisions be mandatory unless the person demonstrates good cause for being unable to use the electronic method.<sup>1</sup> “Good cause” would be defined to include employers with limited or no internet connection, the filer having digital literacy concerns, the filer having communication barriers (such as a vision disability or other disability that prevents the ease of electronic filing, or being an individual with limited English proficiency), or other circumstances that make electronic filing unusually difficult, as determined by the Department. The proposal

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<sup>1</sup> The 2021 Budget Bill (AB 68 / SB 111) included a similar proposal that would have defined “good cause” by administrative rule. That proposal was not included in the final Budget Act.

**D23-05**  
**Electronic Communication and Filing**

also provides that the Department may use electronic records and electronic signatures. The provision related to electronic communication will be effective when the Department has the technological capability to fully implement it. The tax filing and payment provisions will be effective on January 1, 2025, so that employers have enough time to adjust to the new electronic filing and payment requirements.

The Department has begun the process of modernizing its unemployment insurance information technology systems with the expectation that a new system will result in administrative efficiencies for the Department and better customer service. This proposal will ensure the maximization of such efficiencies and service improvements while safeguarding the rights of those whose access to electronic means is severely limited or unavailable.

**2. Proposed Statutory Changes<sup>2</sup>**

**Section 108.14 (2e) of the statutes is amended to read:**

The department ~~may~~ shall provide a secure means of electronic interchange between itself and employing units, claimants, and other persons that, ~~upon request to and with prior approval by the department, may~~ shall be used for departmental transmission or receipt of any document specified by the department that is related to the administration of this chapter and related federal programs in lieu of any other means of submission or receipt specified in this chapter. The secure means of electronic interchange shall be used by employing units, claimants, and other persons unless a person demonstrates good cause for not being able to use the secure means of electronic interchange. For purposes of this subsection, good cause includes individuals with limited or no internet connection, the individual having digital literacy concerns, the individual having communication barriers (such as a vision disability or other disability that prevents the ease of

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<sup>2</sup> Subject to revision to ensure cross-references are corrected.

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**Electronic Communication and Filing**

electronic filing, or being an individual with limited English proficiency), or other circumstances that make electronic filing unusually difficult for the individual, as determined by the department. Subject to s. 137.25 (2) and any rules promulgated thereunder, the department may permit the use of electronic records and electronic signatures for any document specified by the department that is related to the administration of this chapter or any related federal program. If a due date is established by statute for the receipt of any document that is submitted electronically to the department under this subsection, then that submission is timely only if the document is submitted by midnight of the statutory due date.

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

The department shall prescribe a form and methodology for filing contribution reports under sub. (2) electronically. ~~Each employer of 25 or more employees, as determined under s. 108.22 (1) (ae), that does not use an employer agent to file its contribution reports under this section shall file its contribution reports electronically in the manner and form prescribed by the department, unless the employer demonstrates good cause for not being able to file contribution reports electronically. For purposes of this subsection, good cause includes employers with limited or no internet connection, the filer having digital literacy concerns, the filer having communication barriers (such as a vision disability or other disability that prevents the ease of electronic filing, or being an individual with limited English proficiency), or other circumstances that make electronic unusually difficult for the employer, as determined by the department. Each employer that becomes subject to an electronic reporting requirement under this subsection shall file its initial report under this subsection for the quarter during which the employer becomes subject to the reporting requirement. Once an employer becomes subject to a reporting requirement under this subsection,~~

**D23-05**  
**Electronic Communication and Filing**

~~it shall continue to file its reports under this subsection unless that requirement is waived by the department.~~

**Section 108.17 (7) (a) of the statutes is amended to read:**

~~Each employer whose net total contributions paid or payable under this section for any 12-month period ending on June 30 are at least \$10,000 shall pay all contributions under this section and all reimbursements due under ss. 108.15 to 108.152 by means of electronic funds transfer or other electronic method beginning with the next calendar year, unless the employer demonstrates good cause for not being able to pay contributions or reimbursements by electronic funds transfer. For purposes of this subsection, good cause includes employers with limited or no internet connection, the filer having digital literacy concerns, the filer having communication barriers (such as a vision disability or other disability that prevents the ease of electronic filing, or being an individual with limited English proficiency), or other circumstances that make electronic filing unusually difficult for the employer, as determined by the department. Once an employer becomes subject to an electronic payment requirement under this paragraph, the employer shall continue to make payment of all contributions by means of electronic funds transfer unless that requirement is waived by the department.~~

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

~~Each employer of 25 or more employees, as determined under s. 108.22 (1) (ae), that does not use an employer agent to file its reports under this section shall file the quarterly report under sub. (1) electronically in the manner and form prescribed by the department, unless the employer demonstrates good cause for not being able to file reports electronically. For purposes of this subsection, good cause includes employers with limited or no internet connection, the filer having digital literacy concerns, the filer having communication barriers (such as a vision disability or~~

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### Electronic Communication and Filing

other disability that prevents the ease of electronic filing, or being an individual with limited English proficiency), or other circumstances that make electronic filing unusually difficult for the employer, as determined by the department. ~~An employer that becomes subject to an electronic reporting requirement under this subsection shall file its initial report under this subsection for the quarter during which the employer becomes subject to the reporting requirement. 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.~~

#### **Non-statutory provisions:**

(1) UNEMPLOYMENT INSURANCE; ELECTRONIC INTERCHANGE. The department of workforce development shall submit a notice to the legislative reference bureau for publication in the Wisconsin Administrative Register indicating the date upon which the department is able to implement the treatment of s. 108.14 (2e).

(2) The treatment of ss. 108.17 (2b), 108.17 (7) (a) and 108.205 (2) shall take effect on January 1, 2025.



**D23-05**  
**Electronic Communication and Filing**

**3. Effects of Proposed Change**

- a. **Policy:** The proposed change will result in increased efficiencies and improved experiences for claimants and employers.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

**5. Proposed Effective/Applicability Date**

The treatment of section 108.14 (2e) will take effect on the date specified in the notice published in the register. The other provisions will take effect on January 1, 2025.

## D23-05

### Electronic Communication and Filing

#### FISCAL ANALYSIS OF PROPOSED LAW CHANGE

##### **Summary of Proposal:**

Under current law, employers must file quarterly tax and wage reports showing the names, Social Security numbers, and wages paid to their employees. Employers with at least 25 employees must file those reports electronically. Electronic filing ensures that reports are not lost in the mail and reduce administrative costs for the Department. Employers who make contribution payments of at least \$10,000 annually must make those payments by electronic funds transfer, although any employer may do so. Current law also permits the Department to electronically communicate with employers who opt for that form of communication—though not all communication with the Department can currently be electronic.

This proposal makes the electronic filing, electronic communication, and electronic payment provisions mandatory for employers unless the employer demonstrates good cause for being unable to use the electronic method. This proposal mandates electronic communication for claimants unless the claimant has good cause for being unable to use the electronic method. The proposal also provides that the Department may use electronic records and electronic signatures. The provision related to electronic communication will be effective when the Department has the technological capability to fully implement it.

The Department has begun the process of modernizing the unemployment insurance information technology systems with the expectation that a new system will result in administrative efficiencies for the Department and better service for employers and claimants. This proposal will ensure the maximization of such efficiencies and service improvements.

##### **UI Trust Fund Impact:**

This proposal is not expected to have a UI Trust Fund impact.

##### **IT and Administrative Impact:**

If this proposal is implemented as a part of a new system, then the IT costs and administrative impacts will be attributed to that modernization effort.

If this proposal is implemented before the modernization effort, then the estimated cost would be \$49,840 for IT and \$16,447 for administration for a total of \$66,287.

##### **UI Trust Fund Methodology:**

Any Trust Fund impacts resulting from modern technology and ease of reporting will be attributed to the technology modernization project.

##### **IT and Administrative Impact Methodology:**

Implementation is expected to be a part of a modernization effort. If implemented separately, the majority of the cost is changing hard-coded correspondence.

**D23-06**  
**Creation of Administrative Fund**

Date: April 20, 2023  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE**  
**Creation of Administrative Fund**

**1. Description of Proposed Change**

The Department receives federal funds to operate the unemployment insurance program. It also collects interest and penalties from employers and penalties from claimants. The penalties and interest incentivize timely reporting and payments by employers and provide an additional source of revenue for the Department to cover shortfalls in the federal administrative grant. The amounts that the Department receives are appropriated under state law for administration of the unemployment program.

State law previously provided that amounts related to the administration of the unemployment insurance program were to be deposited into the “Unemployment Administration Fund.” That fund was eliminated in 1985 Wisconsin Act 29 (the 1985 Budget Act) and the appropriations were transferred to the general fund. Chapter 108 was amended to repeal references to the Unemployment Administration Fund and to refer to the “Administrative Account.”<sup>1</sup> A review of the legislative history reveals that the amendments were made for accounting purposes at that time. However, other funds are created in chapter 108, such as the Unemployment Program Integrity Fund. The 1985 changes have resulted in different terminology between chs. 20 and 108 to describe the same things, resulting in confusion and inaccurate references. The Department proposes to eliminate the “Administrative Account” and clarify the unemployment insurance appropriations references in Chapter 108 to be consistent with current State accounting practices.

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<sup>1</sup> Wis. Stat. § 108.20.

**D23-06**  
**Creation of Administrative Fund**

It would be clearer to specify the appropriation for deposit of funds, as is the case with other statutes, instead of generally referencing the administrative account. This will ensure that funds are deposited correctly and that payments are made from the correct appropriation.

The Unemployment Program Integrity Fund comprises a variety of sources, including penalties assessed for claimant fraud as well as against employers for intentional worker misclassification.<sup>2</sup> The Unemployment Interest Payment Fund comprises funds collected from the special employer assessment to repay interest on federal loans if the trust fund balance is insufficient to pay benefits.<sup>3</sup> The amounts in these Funds are designated as “nonlapsible,” which means that these amounts may not be transferred to the General Fund to balance the budget.

The Department proposes to eliminate the Administrative Account and recreate a fund, the Unemployment Administration Fund, for receiving the employer interest and penalties collected under section 108.22(1) and any other amounts the Department collects that are not designated for another fund. This new fund would be, as the prior Unemployment Administration Fund was, designated as “nonlapsible.” The purpose of this proposal is to provide consistent treatment for the amounts collected by the Department and to better ensure that amounts paid by employers remain with the unemployment program.

The following chart shows the proposed changes from 2021 SB 899:

<b>Section</b>	<b>Change</b>	<b>Reason</b>
1 & 22	Create an appropriation for LIRC to receive transcript and copying fees.	Originally requested by LIRC in the 2015 State Budget process. Provides an appropriation for receiving fees currently collected by LIRC.
2	Clarifies location for deposit of assessment for program administration.	Department may assess employers an assessment to ensure funding for the UI program. This clarifies which appropriation would handle the funds.

<sup>2</sup> Wis. Stat. § 108.19(1s).

<sup>3</sup> Wis. Stat. §§ 108.19(1m) to (1q).

**D23-06**  
**Creation of Administrative Fund**

3	Amendment to the appropriation that primarily receives employer interest and penalties to receive additional sources of funds.	Consolidates certain appropriations and clarifies language.
4	Repeals the appropriation in s. 20.445(1)(gg).	Repeals an appropriation that is no longer used, related to technology assessments.
5	Amends s. 20.445(1)(gh).	Repeals an obsolete reference to 1997 WI Act 39.
6	Repeals the appropriation in s. 20.445(1)(gm).	Repeals an appropriation related to the employer handbook because those funds are redirected to the (gd) appropriation (employer interest and penalties).
7-10	Amends the appropriations in s. 20.445(1)(n)-(ne).	Updates references to federal law.
11	Amends s. 20.445(1)(u).	Updates cross-reference for interest payment fund.
12	Amends s. 20.445(1)(v).	Updates cross-references for program integrity fund.
13-14	Amends sections in ch. 25.	Updates cross-references.
15	Amends s. 103.05(5)(d)	Updates cross-reference for UI appropriations.
16 & 68	Repeal “administrative account.”	The “administrative account” is repealed and replaced by the Unemployment Administration Fund. State moneys are supposed to be handled by appropriations and funds, not accounts. This removes the references to the account in favor of the new Fund.
17, 23, 24, 26, 27, 31, 32, 34, 47, 48, 53, 65, 66, 67, 69	Repeals references to the “administrative account” and replaces those references with the specific appropriation in s. 20.445(1).	This change ensures that the unemployment appropriations are drafted consistent with current State budget practices and removes ambiguity regarding the appropriate appropriation applicable to certain moneys. Some of these statutes are also amended to update references to federal law.
18-21	Amend s. 108.07(5)(am)-(6).	Updates cross-references. Also ensures that benefits that would be chargeable related to substantial fault would be treated the same as misconduct.
25, 28, 30	Repeals and amends references regarding costs of printing certain materials.	Consolidates language regarding printing forms and handbooks. Replaces references to the “administrative account” with a specific appropriation for consistency.
29	Amends and renumbers s. 108.14(18)	To move the requirement that the Department informs the Council about payments for IT projects with assessed funds.

**D23-06**  
**Creation of Administrative Fund**

52	Amends and renumbers s. 108.19(1)	To modernize and clarify language.
33, 49-51, 54-64	Amends s. 108.19	To clarify the treatment of funds under the interest payment fund and program integrity fund.
35-45	Amends s. 108.161	To modernize provisions related to federal Reed Act moneys.
46	Amends s. 108.17(2m)	To modernize language.
67	Amends and moves statute regarding use of contributions for administrative purposes.	If federal law is changed to permit this purpose, the Department prefers the proposed language in Section 30. This statutory language has apparently not been updated since 1943.
71	Transfers funds to the appropriation in s. 20.445(1)(gd).	It is necessary to transfer any remaining funds in these appropriations, which are being repealed.

**2. Proposed Statutory Changes**

The statutory language for this proposal is attached as it was presented to the Legislature during the 2021 session in 2021 SB 899.

**3. Effects of Proposed Change**

- a. **Policy:** The proposed change will better ensure that employer interest and penalties remain with the unemployment insurance program.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

**5. Proposed Effective/Applicability Date**

This proposal would be effective with other changes made as part of the agreed bill cycle.

**D23-06**  
**Creation of Administrative Fund**

**FISCAL ANALYSIS OF PROPOSED LAW CHANGE**

Prepared by Technical Services Section

**Trust Fund Impact:**

This law change proposal is not expected to have any Trust Fund impact.

**IT and Administrative Impact:**

This law change proposal is not expected to have an IT or administrative impact.

**Summary of Proposal:**

This law change proposal would recreate an Administrative Fund for receiving the employer interest and penalties collected under section 108.22(1) and any other amounts the UI Division collects that are not designated for another fund. Like other Funds related to the unemployment program, the amounts in the newly recreated fund would be designated as “nonlapsible.” The purpose of this proposal is to provide consistent treatment for the amounts collected by the Department and to better ensure that amounts paid by employers remain with the unemployment program.

**Trust Fund Methodology**

This law change proposal is not expected to have any Trust Fund impact.

**IT and Administrative Impact Methodology**

This law change proposal is not expected to have an IT or administrative impact.

The most recent lapse expenditures of employer interest and penalties monies occurred in SFY16 and SFY17 of approximately \$2.67 million and \$2.23 million respectively. This proposal would result in an additional \$2 - \$3 million in funds remaining within the UI program during years where lapse is in effect.



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-5846/1  
MED&EAW:cjs&wlj

## 2021 SENATE BILL 899

February 1, 2022 - Introduced by COMMITTEE ON LABOR AND REGULATORY REFORM.  
Referred to Committee on Labor and Regulatory Reform.

1     **AN ACT** *to repeal* 20.445 (1) (gg), 20.445 (1) (gm), 108.02 (1), 108.14 (7) (c) and  
2     108.14 (23) (d); *to renumber and amend* 20.445 (1) (gc), 20.445 (1) (gd), 20.445  
3     (1) (gh), 108.14 (12) (e), 108.14 (18), 108.19 (1), 108.19 (1m), 108.19 (1n), 108.19  
4     (1p), 108.19 (1q), 108.19 (1s), 108.19 (2), 108.19 (2m) and 108.19 (4); *to*  
5     **consolidate, renumber and amend** 108.14 (12) (a) to (d), 108.161 (1) and  
6     (1m) and 108.161 (5) and (6); *to amend* 20.445 (1) (n), 20.445 (1) (nb), 20.445  
7     (1) (nd), 20.445 (1) (ne), 20.445 (1) (u), 20.445 (1) (v), 25.17 (1) (xe), 25.17 (1) (xf),  
8     103.05 (5) (d), 108.04 (11) (f), 108.07 (5) (am) (intro.), 108.07 (5) (am) 1., 108.07  
9     (5) (am) 3., 108.07 (6), 108.09 (5) (b), 108.14 (2m), 108.14 (3m), 108.14 (16),  
10     108.16 (5) (c), 108.16 (6) (k), 108.16 (6) (m), 108.16 (8) (f), 108.161 (title), 108.161  
11     (2), 108.161 (3), 108.161 (3e), 108.161 (4), 108.161 (7), 108.161 (8), 108.161 (9),  
12     108.162 (7), 108.17 (2m), 108.17 (3), 108.17 (3m), 108.18 (7) (a) 1., 108.18 (7) (h),  
13     108.19 (1e) (a), 108.19 (1e) (d), 108.19 (1f) (a), 108.19 (1f) (c), 108.22 (1) (am) and  
14     108.22 (1m); *to repeal and recreate* 108.19 (title) and 108.20; and *to create*



**SENATE BILL 899**

1           20.427 (1) (g), 108.19 (1) (d), 108.19 (1e) (cm) and 108.19 (1m) (e) of the statutes;  
2           **relating to:** various changes to the unemployment insurance law and making  
3           an appropriation.

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

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

***Segregated fund***

The bill creates a segregated fund to receive various program revenue moneys received by DWD under the UI law that are not otherwise credited to other segregated funds, including various moneys collected by DWD as interest and penalties under the UI law and all other nonfederal moneys received for the administration of the UI law that are not otherwise appropriated. Current law provides for depositing these revenues in appropriations in the general fund.

***Other changes***

The bill makes various changes to a) reorganize, clarify, and update provisions relating to the financing of the UI law; and b) address numerous out-of-date or erroneous cross-references in the UI law, including all of the following:

1. Repealing and consolidating certain appropriations and making other changes to clarify the funding sources and receiving appropriations for various revenues and expenses under the UI law.
2. Creating a program revenue appropriation for the Labor and Industry Review Commission to collect moneys received for the copying and generation of documents and for other services provided in carrying out its functions.
3. Deleting obsolete references to state laws.
4. Correcting various cross-references that are otherwise incomplete or erroneous.
5. Replacing certain references to provisions in federal acts or to the Internal Revenue Code with references to the U.S. Code in order to facilitate accessibility to federal law.
6. Making other nonsubstantive changes to the UI law to improve organization, modernize language, and provide further clarity, specificity, and consistency in the law.

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

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

**SENATE BILL 899**

1           **SECTION 1.** 20.427 (1) (g) of the statutes is created to read:

2           20.427 (1) (g) *Agency collections.* All moneys received from fees or other  
3 charges for copying of documents, generation of copies of documents from optical disc  
4 or electronic storage, publication of books, and other services provided in carrying  
5 out the functions of the commission.

6           **SECTION 2.** 20.445 (1) (gc) of the statutes is renumbered 20.445 (1) (wc) and  
7 amended to read:

8           20.445 (1) (wc) *Unemployment administration.* ~~All From the unemployment~~  
9 administration fund, all moneys received by the department under s. 108.19 ~~not~~  
10 ~~otherwise appropriated under this subsection (1)~~ for the administration of ch. 108.

11           **SECTION 3.** 20.445 (1) (gd) of the statutes is renumbered 20.445 (1) (wd) and  
12 amended to read:

13           20.445 (1) (wd) *Unemployment interest and penalty payments.* ~~All From the~~  
14 unemployment administration fund, all moneys received as interest and penalties  
15 collected under ss. 108.04 (11) (c) and (cm) ~~and (13) (e)~~ and 108.22 except interest and  
16 penalties deposited under s. 108.19 (1q), ~~and forfeitures under s. 103.05 (5), all~~  
17 ~~moneys not appropriated under par. (gg) and 108.20 (3), all moneys received as~~  
18 forfeitures under s. 103.05 (5), all moneys received under s. 108.09 (5) (c), all moneys  
19 received under s. 108.14 (16), all moneys received under s. 108.18 (1) (c), all moneys  
20 transferred to this appropriation account from the appropriation account under par.  
21 ~~(gh) (wh), and all other nonfederal moneys received for the employment service or~~  
22 for the administration of ch. 108 that are not otherwise appropriated under this  
23 subsection, for the payment of benefits specified in s. 108.07 (5) ~~and 1987 Wisconsin~~  
24 ~~Act 38, section 132 (1) (e), for the payment of interest to employers under s. 108.17~~  
25 ~~(3m), for research relating to the condition of the unemployment reserve fund under~~

**SENATE BILL 899****SECTION 3**

1 s. 108.14 (6), for administration of the unemployment insurance program and federal  
2 or state unemployment insurance programs authorized by the governor under s.  
3 16.54, for satisfaction of any federal audit exception concerning a payment from the  
4 unemployment reserve fund or any federal aid disallowance concerning the  
5 unemployment insurance program, for assistance to the department of justice in the  
6 enforcement of ch. 108, for the payment of interest due on advances from the federal  
7 unemployment account under ~~title XII of the social security act~~ 42 USC 1321 to 1324  
8 to the unemployment reserve fund, and for payments made to the unemployment  
9 reserve fund to obtain a lower interest rate or deferral of interest payments on these  
10 advances, ~~except as otherwise provided in s. 108.20.~~

11 **SECTION 4.** 20.445 (1) (gg) of the statutes is repealed.

12 **SECTION 5.** 20.445 (1) (gh) of the statutes is renumbered 20.445 (1) (wh) and  
13 amended to read:

14 20.445 (1) (wh) *Unemployment information technology systems; assessments.*  
15 ~~All~~ From the unemployment administration fund, all moneys received from  
16 assessments levied under s. 108.19 (1e) (a) and ~~1997 Wisconsin Act 39, section 164~~  
17 ~~(2)~~, for the purpose specified in s. 108.19 (1e) (d). The treasurer of the unemployment  
18 reserve fund may transfer moneys from this appropriation account to the  
19 appropriation account under par. ~~(gd)~~ (wd).

20 **SECTION 6.** 20.445 (1) (gm) of the statutes is repealed.

21 **SECTION 7.** 20.445 (1) (n) of the statutes is amended to read:

22 20.445 (1) (n) *Employment assistance and unemployment insurance*  
23 *administration; federal moneys.* All federal moneys received, as authorized by the  
24 governor under s. 16.54, for the administration of employment assistance and  
25 unemployment insurance programs of the department, for the performance of the

**SENATE BILL 899**

1 department's other functions under subch. I of ch. 106 and ch. 108, and to pay the  
2 compensation and expenses of appeal tribunals and of employment councils  
3 appointed under s. 108.14, to be used for such purposes, except as provided in s.  
4 108.161 (3e), and, from the moneys received by this state under ~~section 903~~ 42 USC  
5 1103 (d) of the federal Social Security Act, as amended, to transfer to the  
6 appropriation account under par. (nb) an amount determined by the treasurer of the  
7 unemployment reserve fund not exceeding the lesser of the amount specified in s.  
8 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the  
9 appropriation account under par. (nd) an amount determined by the treasurer of the  
10 unemployment reserve fund not exceeding the lesser of the amount specified in s.  
11 108.161 (4) (d) or the amounts in the schedule under par. (nd), to transfer to the  
12 appropriation account under par. (ne) an amount not exceeding the lesser of the  
13 amount specified in s. 108.161 (4) (d) or the sum of the amounts in the schedule under  
14 par. (ne) and the amount determined by the treasurer of the unemployment reserve  
15 fund that is required to pay for the cost of banking services incurred by the  
16 unemployment reserve fund, and to transfer to the appropriation account under s.  
17 20.427 (1) (k) an amount determined by the treasurer of the unemployment reserve  
18 fund.

19 **SECTION 8.** 20.445 (1) (nb) of the statutes is amended to read:

20 20.445 (1) (nb) *Unemployment administration; information technology*  
21 *systems.* From the moneys received from the federal government under ~~section 903~~  
22 42 USC 1103 (d) of the federal Social Security Act, as amended, as a continuing  
23 appropriation, the amounts in the schedule, as authorized by the governor under s.  
24 16.54, for the purpose specified in s. 108.19 (1e) (d). All moneys transferred from par.  
25 (n) for this purpose shall be credited to this appropriation account. No moneys may

**SENATE BILL 899****SECTION 8**

1 be expended from this appropriation unless the treasurer of the unemployment  
2 reserve fund determines that such expenditure is currently needed for the purpose  
3 specified in s. 108.19 (1e) (d).

4 **SECTION 9.** 20.445 (1) (nd) of the statutes is amended to read:

5 20.445 (1) (nd) *Unemployment administration; apprenticeship and other*  
6 *employment services.* From the moneys received from the federal government under  
7 ~~section 903~~ 42 USC 1103 (d) of the federal Social Security Act, as amended, the  
8 amounts in the schedule, as authorized by the governor under s. 16.54, to be used for  
9 administration by the department of apprenticeship programs under subch. I of ch.  
10 106 and for administration and service delivery of employment and workforce  
11 information services, including the delivery of reemployment assistance services to  
12 unemployment insurance claimants. All moneys transferred from par. (n) for this  
13 purpose shall be credited to this appropriation account. No moneys may be expended  
14 from this appropriation unless the treasurer of the unemployment reserve fund  
15 determines that such expenditure is currently needed for the purposes specified in  
16 this paragraph.

17 **SECTION 10.** 20.445 (1) (ne) of the statutes is amended to read:

18 20.445 (1) (ne) *Unemployment insurance administration and bank service*  
19 *costs.* From the moneys received by this state under ~~section 903~~ of the federal Social  
20 Security Act, as amended 42 USC 1103, all moneys transferred from the  
21 appropriation account under par. (n) to be used for the administration of  
22 unemployment insurance and for the payment of the cost of banking services  
23 incurred by the unemployment reserve fund. No moneys may be expended from this  
24 appropriation unless the treasurer of the unemployment reserve fund determines

**SENATE BILL 899**

1 that such expenditure is currently needed for the purpose specified in this  
2 paragraph.

3 **SECTION 11.** 20.445 (1) (u) of the statutes is amended to read:

4 20.445 (1) (u) *Unemployment interest payments and transfers.* From the  
5 unemployment interest payment fund, all moneys received from assessments under  
6 s. 108.19 (1m) (a) for the purpose of making the payments and transfers authorized  
7 under s. 108.19 (1m) (f).

8 **SECTION 12.** 20.445 (1) (v) of the statutes is amended to read:

9 20.445 (1) (v) *Unemployment program integrity.* From the unemployment  
10 program integrity fund, all moneys received from sources identified under s. ~~108.19~~  
11 ~~(1s)~~ 108.20 (2) (a) for the purpose of making the payments authorized under s. ~~108.19~~  
12 ~~(1s)~~ 108.20 (2) (b).

13 **SECTION 13.** 25.17 (1) (xe) of the statutes is amended to read:

14 25.17 (1) (xe) Unemployment interest payment fund (s. ~~108.19 (1q)~~ 108.20 (3));

15 **SECTION 14.** 25.17 (1) (xf) of the statutes is amended to read:

16 25.17 (1) (xf) Unemployment program integrity fund (s. ~~108.19 (1s)~~ 108.20 (2));

17 **SECTION 15.** 103.05 (5) (d) of the statutes is amended to read:

18 103.05 (5) (d) The department shall deposit all moneys received under this  
19 subsection in the appropriation account under s. 20.445 (1) (~~gd~~) (wd).

20 **SECTION 16.** 108.02 (1) of the statutes is repealed.

21 **SECTION 17.** 108.04 (11) (f) of the statutes is amended to read:

22 108.04 (11) (f) All amounts forfeited under par. (c) and all collections from  
23 administrative assessments under par. (cm) shall be credited to the administrative  
24 account appropriation under s. 20.445 (1) (wd).

25 **SECTION 18.** 108.07 (5) (am) (intro.) of the statutes is amended to read:

**SENATE BILL 899****SECTION 18**

1           108.07 (5) (am) (intro.) Except as provided in sub. (7), whenever benefits  
2    ~~which that~~ would otherwise be chargeable to the fund's balancing account are paid  
3    based on wages paid by an employer that is not subject to the contribution  
4    requirements of ss. 108.17 and 108.18, and the benefits are so chargeable under  
5    sub. (3) or s. 108.04 (1) (f) ~~or, (5),~~ or (5g) or 108.14 (8n) (e), or under s. 108.16 (6m)  
6    (e) for benefits specified in s. 108.16 (3) (b), the department shall charge the  
7    benefits as follows:

8           **SECTION 19.** 108.07 (5) (am) 1. of the statutes is amended to read:

9           108.07 (5) (am) 1. If no employer from which the claimant has base period  
10   wages is subject to the contribution requirements of ss. 108.17 and 108.18, the  
11   benefits shall be ~~charged to the administrative account and~~ paid from the  
12   appropriation under s. 20.445 (1) (gd) (wd).

13           **SECTION 20.** 108.07 (5) (am) 3. of the statutes is amended to read:

14           108.07 (5) (am) 3. If 2 or more employers from which the claimant has base  
15   period wages are not subject to the contribution requirements of ss. 108.17 and  
16   108.18, and one or more employers from which the claimant has base period wages  
17   are subject to the contribution requirements of ss. 108.17 and 108.18, that  
18   percentage of the employee's benefits which would otherwise be chargeable to the  
19   fund's balancing account under sub. (3) or s. 108.04 (1) (f) ~~or, (5),~~ or (5g), or under s.  
20   108.16 (6m) (e) for benefits specified in s. 108.16 (3) (b), shall be ~~charged to the~~  
21   ~~administrative account and~~ paid from the appropriation under s. 20.445 (1) (gd) (wd).

22           **SECTION 21.** 108.07 (6) of the statutes is amended to read:

23           108.07 (6) The department may initially charge benefits otherwise ~~chargeable~~  
24   ~~to the administrative account payable from the appropriation under s. 20.445 (1)~~  
25   (wd) as provided under this section to the fund's balancing account, and periodically

**SENATE BILL 899**

1 reimburse the charges to the balancing account from the ~~administrative account~~  
2 appropriation under s. 20.445 (1) (wd).

3 **SECTION 22.** 108.09 (5) (b) of the statutes is amended to read:

4 108.09 (5) (b) All testimony at any hearing under this section shall be recorded  
5 by electronic means, but need not be transcribed unless either of the parties requests  
6 a transcript before expiration of that party's right to further appeal under this  
7 section and pays a fee to the commission in advance, the amount of which shall be  
8 established by rule of the commission. When the commission provides a transcript  
9 to one of the parties upon request, the commission shall also provide a copy of the  
10 transcript to all other parties free of charge. The transcript fee collected shall be paid  
11 ~~to the administrative account~~ credited to the appropriation account under s. 20.427  
12 (1) (g).

13 **SECTION 23.** 108.14 (2m) of the statutes is amended to read:

14 108.14 (2m) In the discharge of their duties under this chapter an appeal  
15 tribunal, commissioner, or other authorized representative of the department or  
16 commission may administer oaths to persons appearing before them, take  
17 depositions, certify to official acts, and by subpoenas, served in the manner in which  
18 circuit court subpoenas are served, compel attendance of witnesses and the  
19 production of books, papers, documents, and records necessary or convenient to be  
20 used by them in connection with any investigation, hearing, or other proceeding  
21 under this chapter. A party's attorney of record may issue a subpoena to compel the  
22 attendance of a witness or the production of evidence. A subpoena issued by an  
23 attorney must be in substantially the same form as provided in s. 805.07 (4) and must  
24 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of  
25 issuance, send a copy of the subpoena to the appeal tribunal or other representative



**SENATE BILL 899****SECTION 23**

1 of the department responsible for conducting the proceeding. However, in any  
2 investigation, hearing, or other proceeding involving the administration of oaths or  
3 the use of subpoenas under this subsection due notice shall be given to any interested  
4 party involved, who shall be given an opportunity to appear and be heard at any such  
5 proceeding and to examine witnesses and otherwise participate therein. Witness  
6 fees and travel expenses involved in proceedings under this chapter may be allowed  
7 by the appeal tribunal or representative of the department at rates specified by  
8 department rules, and shall be paid from the ~~administrative account~~ appropriation  
9 under s. 20.445 (1) (n).

10 **SECTION 24.** 108.14 (3m) of the statutes is amended to read:

11 108.14 (3m) In any court action to enforce this chapter the department, the  
12 commission, and the state may be represented by any licensed attorney who is an  
13 employee of the department or the commission and is designated by either of them  
14 for this purpose or at the request of either of them by the department of justice. If  
15 the governor designates special counsel to defend, in behalf of the state, the validity  
16 of this chapter or of any provision of ~~Title IX of the social security act~~ 42 USC 1101  
17 to 1111, the expenses and compensation of the special counsel and of any experts  
18 employed by the department in connection with that proceeding may be charged to  
19 the ~~administrative account~~ appropriation under s. 20.445 (1) (wd). If the  
20 compensation is being determined on a contingent fee basis, the contract is subject  
21 to s. 20.9305.

22 **SECTION 25.** 108.14 (7) (c) of the statutes is repealed.

23 **SECTION 26.** 108.14 (12) (a) to (d) of the statutes are consolidated, renumbered  
24 108.14 (12) (am) and amended to read:

**SENATE BILL 899**

1           108.14 **(12)** (am) Consistently with the provisions of ~~pars. (8) and (9) of section~~  
2           ~~303 (a) of Title III of the federal social security act, 42 USC 503 (a) (8) and (9), the~~  
3           ~~department shall expend~~ all moneys received in the federal administrative financing  
4           account from any federal agency under said Title III ~~shall be expended 42 USC ch.~~  
5           ~~7 subch. III solely for the purposes and in the amounts found necessary by said that~~  
6           ~~agency for the proper and efficient administration of this chapter. (b) Consistently~~  
7           ~~with said provisions of said Title III, any~~ The department shall replace, within a  
8           ~~reasonable time, any such moneys, that were received prior to before~~ July 1, 1941,  
9           and ~~remaining remained~~ unencumbered on said ~~that~~ date, or ~~that were~~ received on  
10          or after said ~~that~~ date, ~~which, because of any action or contingency, have been if the~~  
11          moneys are lost or have been expended for purposes other than, or in amounts in  
12          excess of, those found necessary by said the federal agency for the proper  
13          administration of this chapter, ~~shall be replaced within a reasonable time. This~~  
14          ~~paragraph is the declared policy of this state, as enunciated by the 1941 legislature,~~  
15          and shall be implemented as further provided in this subsection. (c). If it is believed  
16          that any amount of money thus received ~~has been thus is~~ lost or improperly  
17          expended, the department, on its own motion or on notice from said the federal  
18          agency, shall promptly investigate and determine the matter and shall, depending  
19          on the nature of its determination, take such steps as it ~~may deem~~ considers  
20          necessary to protect the interests of the state. (d) If it is finally determined that  
21          moneys ~~thus received~~ have been ~~thus~~ lost or improperly expended, then the  
22          department shall either make the necessary replacement from ~~those moneys in the~~  
23          ~~administrative account specified in s. 108.20 (2m)~~ the appropriation under s. 20.445  
24          (1) (wd) or shall submit, at the next budget hearings conducted by the governor and  
25          at the budget hearings conducted by the next legislature convened in regular session,

**SENATE BILL 899****SECTION 26**

1 a request that the necessary replacement be made by an appropriation from the  
2 general fund.

3 **SECTION 27.** 108.14 (12) (e) of the statutes is renumbered 108.14 (12) (bm) and  
4 amended to read:

5 108.14 (12) (bm) This subsection shall not be construed to relieve this state of  
6 any obligation existing ~~prior to its enactment before July 1, 1941,~~ with respect to  
7 moneys received ~~prior to before July 1, 1941, pursuant to said Title III under 42 USC~~  
8 ch. 7 subch. III.

9 **SECTION 28.** 108.14 (16) of the statutes is amended to read:

10 108.14 (16) The department shall have duplicated or printed, ~~and shall~~  
11 ~~distribute without charge, such employment security~~ any reports, studies and,  
12 forms, records, decisions, regulations, rules, or other materials, including the text of  
13 this chapter ~~and, the handbook under sub. (23), and other~~ instructional or  
14 explanatory pamphlets for employers or workers, as that it deems necessary for  
15 public information or for the proper administration of this chapter; ~~but the.~~ The  
16 department may collect a reasonable charge, which shall be credited to the  
17 administrative appropriation account under s. 20.445 (1) (wd), for any such item the  
18 cost of which is not fully covered by federal administrative grants.

19 **SECTION 29.** 108.14 (18) of the statutes is renumbered 108.19 (1e) (e) and  
20 amended to read:

21 108.19 (1e) (e) No later than the end of the month following each quarter in  
22 which the department expends moneys derived from assessments levied under s.  
23 ~~108.19 (1e)~~ this subsection, the department shall submit a report to the council on  
24 unemployment insurance describing the use of the moneys expended and the status  
25 at the end of the quarter of any project for which moneys were expended.

**SENATE BILL 899**

1           **SECTION 30.** 108.14 (23) (d) of the statutes is repealed.

2           **SECTION 31.** 108.16 (5) (c) of the statutes is amended to read:

3           108.16 (5) (c) While the state has an account in the “Unemployment Trust  
4 Fund”,” public deposit insurance charges on the fund’s balances held in banks,  
5 savings banks, savings and loan associations, and credit unions in this state, the  
6 premiums on surety bonds required of the fund’s treasurer under this section, and  
7 any other expense of administration otherwise payable from the fund’s interest  
8 earnings, shall be paid from the ~~administrative account~~ appropriation under s.  
9 20.445 (1) (n) or (ne).

10          **SECTION 32.** 108.16 (6) (k) of the statutes is amended to read:

11          108.16 (6) (k) All payments to the fund from the ~~administrative account as~~  
12 ~~authorized under s. 108.20 (2m)~~ appropriation under s. 20.445 (1) (wd).

13          **SECTION 33.** 108.16 (6) (m) of the statutes is amended to read:

14          108.16 (6) (m) Any amounts transferred to the balancing account from the  
15 unemployment interest payment fund under s. 108.19 (1m) (f).

16          **SECTION 34.** 108.16 (8) (f) of the statutes is amended to read:

17          108.16 (8) (f) The successor shall take over and continue the transferor’s  
18 account, including its positive or negative balance and all other aspects of its  
19 experience under this chapter in proportion to the payroll assignable to the  
20 transferred business and the liability of the successor shall be proportioned to the  
21 extent of the transferred business. The transferor and the successor shall be jointly  
22 and severally liable for any amounts owed by the transferor ~~to the fund and to the~~  
23 ~~administrative account~~ under this chapter at the time of the transfer, but a successor  
24 under par. (c) is not liable for the debts of the transferor except in the case of fraud  
25 or malfeasance.

**SENATE BILL 899****SECTION 35**

1           **SECTION 35.** 108.161 (title) of the statutes is amended to read:

2           **108.161 (title) Federal administrative financing account; Reed Act**  
3           **distributions.**

4           **SECTION 36.** 108.161 (1) and (1m) of the statutes are consolidated, renumbered  
5           108.161 (1) and amended to read:

6           108.161 (1) The fund's treasurer shall maintain within the fund an  
7           employment security "federal administrative financing account", and shall credit  
8           ~~thereto to that account~~ all amounts credited to the fund pursuant to the federal  
9           ~~employment security administrative financing act (of 1954) and section 903 of the~~  
10          ~~federal social security act, as amended. (1m) The treasurer of the fund shall also~~  
11          ~~credit to said account~~ under 42 USC 1101 to 1103 and all federal moneys credited to  
12          the fund pursuant to under sub. (8).

13          **SECTION 37.** 108.161 (2) of the statutes is amended to read:

14          108.161 (2) The requirements of ~~said section 903~~ 42 USC 1103 shall control any  
15          appropriation, withdrawal, and use of any moneys in said the federal administrative  
16          financing account.

17          **SECTION 38.** 108.161 (3) of the statutes is amended to read:

18          108.161 (3) Consistently with this chapter and ~~said section 903,~~ such 42 USC  
19          1103, moneys in the federal administrative financing account shall be used solely for  
20          benefits or employment security administration by the department, including  
21          unemployment insurance, employment service, apprenticeship programs, and  
22          related statistical operations.

23          **SECTION 39.** 108.161 (3e) of the statutes is amended to read:

24          108.161 (3e) Notwithstanding sub. (3), any moneys allocated under ~~section 903~~  
25          ~~of the federal Social Security Act, as amended,~~ 42 USC 1103 for federal fiscal years

**SENATE BILL 899**

1 2000 and 2001 and the first \$2,389,107 of any distribution received by this state  
2 under ~~section 903 of that act~~ 42 USC 1103 in federal fiscal year 2002 shall be used  
3 solely for unemployment insurance administration.

4 **SECTION 40.** 108.161 (4) of the statutes is amended to read:

5 108.161 (4) ~~Such moneys~~ Moneys in the federal administrative financing  
6 account shall be encumbered and spent for employment security administrative  
7 purposes only pursuant to, and after the effective date of, a specific legislative  
8 appropriation enactment that does all of the following:

9 (a) ~~Stating States~~ for which such purposes and in what amounts the  
10 appropriation is being made ~~to the administrative account created by s. 108.20.~~

11 (b) ~~Directing Directs~~ the fund's treasurer to transfer the appropriated amounts  
12 ~~to the administrative account~~ the appropriation account under s. 20.445 (1) (n) only  
13 as and to the extent that they are currently needed for such expenditures, and  
14 ~~directing directs~~ that there shall be restored to the federal administrative financing  
15 ~~account created by sub. (1)~~ any amount thus transferred ~~which~~ that has ceased to be  
16 needed or available for such expenditures.

17 (c) ~~Specifying Specifies~~ that the appropriated amounts are available for  
18 obligation solely within the 2 years beginning on the appropriation law's date of  
19 enactment. This paragraph does not apply to the appropriations under s. 20.445 (1)  
20 (nd) and (ne) or to any amounts expended from the appropriation under s. 20.445 (1)  
21 (nb) from moneys transferred to this state on March 13, 2002, pursuant to ~~section 903~~  
22 ~~(d) of the federal Social Security Act~~ 42 USC 1103 (d).

23 (d) ~~Limiting Limits~~ the total amount ~~which~~ that may be obligated during any  
24 fiscal year to the aggregate of all amounts credited under sub. (1), including amounts

**SENATE BILL 899****SECTION 40**

1 credited pursuant to under sub. (8), reduced at the time of any obligation by the sum  
2 of the moneys obligated and charged against any of the amounts credited.

3 **SECTION 41.** 108.161 (5) and (6) of the statutes are consolidated, renumbered  
4 108.161 (5m) and amended to read:

5 108.161 **(5m)** The total of the amounts ~~thus~~ appropriated under sub. (4) for use  
6 in any fiscal year shall in no event exceed the moneys available for such use  
7 hereunder under this section, considering the timing of credits hereunder under this  
8 section and the sums already spent or appropriated or transferred or otherwise  
9 encumbered hereunder. (6) under this section. The fund's treasurer shall keep a  
10 record of all such ~~times and amounts; shall charge transactions and shall do all of the~~  
11 following:

12 (a) Charge each sum against the earliest credits ~~duly~~ available therefor; ~~shall~~  
13 ~~include.~~

14 (b) Include any sum ~~thus~~ that has been appropriated but not yet spent  
15 hereunder under this section in computing the fund's net balance as of the close of  
16 any month, in line with the federal requirement that any such sum shall, until spent,  
17 be considered part of the fund; ~~and shall certify.~~

18 (c) Certify the relevant facts whenever necessary hereunder.

19 **SECTION 42.** 108.161 (7) of the statutes is amended to read:

20 108.161 **(7)** If any moneys appropriated ~~hereunder~~ under this section are used  
21 to buy and hold suitable land, ~~with a view to the future construction of an~~ and to build  
22 a suitable employment security building thereon, and if such land is later sold or  
23 transferred to other use, the proceeds of such sale ( ~~or the value of such land when~~  
24 transferred), shall be credited to the federal administrative financing account  
25 ~~created by sub. (1)~~ except as otherwise provided in ss. 13.48 (14) and 16.848.

**SENATE BILL 899**

1           **SECTION 43.** 108.161 (8) of the statutes is amended to read:

2           108.161 (8) If any sums are appropriated and spent hereunder under this  
3 section to buy land and to build a suitable employment security building thereon, or  
4 to purchase information technology hardware and software, ~~then~~ any federal  
5 moneys thereafter credited to the fund or paid to the department by way of gradual  
6 reimbursement of such employment security capital expenditures, or in lieu of the  
7 estimated periodic amounts ~~which~~ that would otherwise (, in the absence of such  
8 expenditures), be federally granted for the rental of substantially equivalent  
9 quarters, shall be credited to the federal administrative financing account ~~created~~  
10 ~~by sub. (1)~~, consistently with any federal requirements applicable to the handling  
11 and crediting of such moneys.

12           **SECTION 44.** 108.161 (9) of the statutes is amended to read:

13           108.161 (9) Any land and building or office quarters acquired under this section  
14 shall continue to be used for employment security purposes. Realty or quarters may  
15 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)  
16 or 16.848 (1) and may not be sold or transferred without the governor's approval. The  
17 proceeds from the sale, or the value of realty or quarters upon transfer, shall be  
18 credited to the federal administrative financing account ~~established in sub. (1)~~ or  
19 credited to the ~~fund established in s. 108.20~~ appropriate appropriation account  
20 under s. 20.445, or both as determined by the department in accordance with federal  
21 requirements. Equivalent substitute rent-free quarters may be provided, as  
22 federally approved. Amounts credited under this subsection shall be used solely to  
23 finance employment security quarters according to federal requirements.

24           **SECTION 45.** 108.162 (7) of the statutes is amended to read:



**SENATE BILL 899****SECTION 45**

1           108.162 (7) Any amount appropriated under s. 20.445 (1) (na) ~~which~~ that has  
2 not been obligated shall be available for employment security local office building  
3 projects, consistent with this section and ~~ss. s.~~ s. 108.161 and ~~108.20~~.

4           **SECTION 46.** 108.17 (2m) of the statutes is amended to read:

5           108.17 (2m) When a written statement of account is issued to an employer by  
6 the department, ~~showing as duly credited~~ that shows a specified amount received  
7 from the employer under this chapter as having been credited, no other form of state  
8 receipt ~~therefor~~ is required.

9           **SECTION 47.** 108.17 (3) of the statutes is amended to read:

10           108.17 (3) If an employing unit ~~makes application~~ applies to the department  
11 to adjust an alleged overpayment by the employer of contributions or interest under  
12 this chapter, and files such an application within 3 years after the close of the  
13 calendar year in which such payment was made, the department shall ~~make a~~  
14 ~~determination~~ determine under s. 108.10 ~~as to the existence and whether and to~~  
15 ~~what~~ extent of any such an overpayment, and ~~said section shall apply to such~~  
16 ~~determination~~ exists. Except as provided in sub. (3m), the department shall allow  
17 an employer a credit for any amount determined under s. 108.10 to have been  
18 erroneously paid by the employer, without interest, against its future contribution  
19 payments; or, if the department finds it impracticable to allow the employer such a  
20 credit, it shall refund ~~such~~ the overpayment to the employer, without interest, from  
21 the fund or the ~~administrative account, as the case may be~~ appropriate appropriation  
22 under s. 20.445.

23           **SECTION 48.** 108.17 (3m) of the statutes is amended to read:

24           108.17 (3m) If an appeal tribunal or the commission issues a decision under  
25 s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is

**SENATE BILL 899**

1 determined that an amount has been erroneously paid by an employer, the  
2 department shall, from the ~~administrative account~~ appropriation under s. 20.445 (1)  
3 (wd), credit the employer with interest at the rate of 0.75 percent per month or  
4 fraction thereof on the amount of the erroneous payment. Interest shall accrue from  
5 the month which the erroneous payment was made until the month in which it is  
6 either used as a credit against future contributions or refunded to the employer.

7 **SECTION 49.** 108.18 (7) (a) 1. of the statutes is amended to read:

8 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make  
9 payments to the fund during the month of November in excess of those required by  
10 this section and s. 108.19 (1), ~~(1e)~~, and ~~(1f)~~. Each payment shall be credited to the  
11 employer's account for the purpose of computing the employer's reserve percentage  
12 as of the immediately preceding computation date.

13 **SECTION 50.** 108.18 (7) (h) of the statutes is amended to read:

14 108.18 (7) (h) The department shall establish contributions, other than those  
15 contributions required by this section and assessments required under s. 108.19 (1),  
16 ~~(1e)~~, and ~~(1f)~~ and contributions other than those submitted during the month of  
17 November or authorized under par. (f) or (i) 2., as a credit, without interest, against  
18 future contributions payable by the employer or shall refund the contributions at the  
19 employer's option.

20 **SECTION 51.** 108.19 (title) of the statutes is repealed and recreated to read:

21 **108.19 (title) Special assessments.**

22 **SECTION 52.** 108.19 (1) of the statutes is renumbered 108.19 (1) (a) and  
23 amended to read:

24 108.19 (1) (a) Each employer subject to this chapter shall regularly ~~contribute~~  
25 ~~to the administrative account at the rate of two-tenths of one~~ pay an assessment

**SENATE BILL 899****SECTION 52**

1 equal to 0.2 percent per year on its payroll, except that the department may prescribe  
2 at the close of any fiscal year such lower rates ~~of contribution~~ under this section  
3 subsection, to apply to classes of employers throughout the ensuing fiscal year, as will  
4 in the department's judgment adequately finance the administration of this chapter,  
5 and as will in the department's judgment fairly represent the relative cost of the  
6 services rendered by the department to each such class.

7 **SECTION 53.** 108.19 (1) (d) of the statutes is created to read:

8 108.19 (1) (d) Assessments under this subsection shall be credited to the  
9 appropriation account under s. 20.445 (1) (wc).

10 **SECTION 54.** 108.19 (1e) (a) of the statutes is amended to read:

11 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an  
12 employer that finances benefits by reimbursement in lieu of contributions under s.  
13 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable  
14 under s. 108.18 and this section, pay an assessment ~~to the administrative account~~  
15 for each year ~~prior to~~ before the year 2010 equal to the lesser of 0.01 percent of its  
16 payroll for that year or the solvency contribution that would otherwise be payable  
17 by the employer under s. 108.18 (9) for that year.

18 **SECTION 55.** 108.19 (1e) (cm) of the statutes is created to read:

19 108.19 (1e) (cm) Assessments under this subsection shall be credited to the  
20 appropriation under s. 20.445 (1) (wh).

21 **SECTION 56.** 108.19 (1e) (d) of the statutes is amended to read:

22 108.19 (1e) (d) The department may expend the moneys received from  
23 assessments levied under this subsection in the amounts authorized under s. 20.445  
24 (1) ~~(gh)~~ (wh) for the renovation and modernization of unemployment insurance  
25 information technology systems, specifically including development and

**SENATE BILL 899**

1 implementation of a new system and reengineering of automated processes and  
2 manual business functions.

3 **SECTION 57.** 108.19 (1f) (a) of the statutes is amended to read:

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

10 (d) Assessments under this ~~paragraph~~ subsection shall be deposited in the  
11 unemployment program integrity fund.

12 **SECTION 58.** 108.19 (1f) (c) of the statutes is amended to read:

13 108.19 (1f) (c) Notwithstanding par. (a), the department may, if it finds that the  
14 full amount of the levy is not required to effect the purposes specified in ~~sub. (1s) s.~~  
15 108.20 (2) (b) for any year, prescribe a reduced levy for that year and in such case shall  
16 publish in the notice under par. (b) the rate of the reduced levy.

17 **SECTION 59.** 108.19 (1m) of the statutes is renumbered 108.19 (1m) (a) and  
18 amended to read:

19 108.19 (1m) (a) Each employer subject to this chapter as of the date a rate is  
20 established under this subsection shall pay an assessment ~~to the unemployment~~  
21 ~~interest payment fund~~ at a rate established by the department sufficient to pay  
22 interest due on advances from the federal unemployment account under ~~Title XII of~~  
23 ~~the federal social security act~~, 42 USC 1321 to 1324. The rate established by the  
24 department for employers who finance benefits under s. 108.15 (2), 108.151 (2), or  
25 108.152 (1) shall be 75 percent of the rate established for other employers. The

**SENATE BILL 899****SECTION 59**

1 amount of any employer's assessment shall be the product of the rate established for  
2 that employer multiplied by the employer's payroll of the previous calendar year as  
3 taken from quarterly employment and wage reports filed by the employer under s.  
4 108.205 (1) or, in the absence of the filing of such reports, estimates made by the  
5 department.

6 (d) Each assessment made under this subsection is due within 30 days after the  
7 date the department issues the assessment. ~~If the~~

8 (f) The department shall use amounts collected from employers under this  
9 subsection ~~exceed the amounts needed to pay interest due on advances from the~~  
10 federal unemployment account under 42 USC 1321 to 1324. If the amounts collected  
11 exceed the amounts needed to pay that interest for a given year, the department shall  
12 use any the excess to pay interest owed in subsequent years on advances from the  
13 federal unemployment account. If the department determines that additional  
14 interest obligations are unlikely, the department shall transfer the excess to the  
15 fund's balancing account ~~of the fund~~, the unemployment program integrity fund, or  
16 both in amounts determined by the department.

17 **SECTION 60.** 108.19 (1m) (e) of the statutes is created to read:

18 108.19 **(1m)** (e) Assessments under this subsection shall be deposited in the  
19 unemployment interest payment fund.

20 **SECTION 61.** 108.19 (1n) of the statutes is renumbered 108.19 (1m) (b) and  
21 amended to read:

22 108.19 **(1m)** (b) The department shall publish as a class 1 notice under ch. 985  
23 any rate established under ~~sub. (1m)~~ par. (a) within 10 days of after the date that the  
24 rate is established.

**SENATE BILL 899**

1           **SECTION 62.** 108.19 (1p) of the statutes is renumbered 108.19 (1m) (c) and  
2 amended to read:

3           108.19 **(1m)** (c) Notwithstanding ~~sub. (1m) par. (a)~~, an employer having a  
4 payroll of \$25,000 or less for the preceding calendar year is exempt from any  
5 assessment under ~~sub. (1m)~~ this subsection.

6           **SECTION 63.** 108.19 (1q) of the statutes is renumbered 108.20 (3) and amended  
7 to read:

8           108.20 **(3)** UNEMPLOYMENT INTEREST PAYMENT FUND. There is created a separate,  
9 nonlapsible trust fund designated as the unemployment interest payment fund  
10 consisting of all amounts collected under ~~sub. s. 108.19~~ (1m) (a) and all interest and  
11 penalties on those amounts collected under s. 108.22.

12           **SECTION 64.** 108.19 (1s) of the statutes is renumbered 108.20 (2), and 108.20  
13 (2) (a) 2. and 3., as renumbered, are amended to read:

14           108.20 **(2)** (a) 2. Assessments levied and deposited into the unemployment  
15 program integrity fund under ~~sub. (1f)~~ s. 108.19 (1f).

16           3. Amounts transferred under ~~sub. (1m)~~ s. 108.19 (1m) (f).

17           **SECTION 65.** 108.19 (2) of the statutes is renumbered 108.19 (1) (b) and  
18 amended to read:

19           108.19 **(1)** (b) If the department finds, at any time within a fiscal year for which  
20 it has prescribed lower contribution rates to the administrative account than the  
21 maximum rate permitted under ~~sub. (1) par. (a)~~, that such lower rates will not  
22 adequately finance the administration of this chapter or are excessive for that  
23 purpose, the department may by general rule prescribe a new schedule of rates in no  
24 case exceeding the specified maximum to apply under this ~~section~~ subsection for the  
25 balance of the fiscal year.

**SENATE BILL 899****SECTION 66**

1           **SECTION 66.** 108.19 (2m) of the statutes is renumbered 108.19 (1) (c) and  
2 amended to read:

3           108.19 (1) (c) Within the limit specified by ~~sub. (1)~~ under par. (a), the  
4 department may by rule prescribe at any time as to any period any such rate or rates  
5 or schedule as it deems necessary and proper ~~hereunder~~ under this subsection.  
6 Unless thus prescribed, no such rate or rates or schedule shall apply under ~~sub. (1)~~  
7 ~~or (2)~~ par. (a) or (b).

8           **SECTION 67.** 108.19 (4) of the statutes is renumbered 108.18 (1) (c) and  
9 amended to read:

10           108.18 (1) (c) ~~If section 303 Notwithstanding par. (b), if 42 USC 503 (a) (5) of~~  
11 ~~title III of the social security act and section 26 USC 3304 (a) (4) of the internal~~  
12 ~~revenue code are amended to permit a state agency to use, in financing~~  
13 ~~administrative expenditures incurred in carrying out its employment security~~  
14 ~~functions, some any part of the moneys collected or to be collected under the state~~  
15 ~~unemployment insurance law, an employer's contributions in partial or complete~~  
16 ~~substitution for grants under title III 42 USC 501 to 506, then this chapter shall, by~~  
17 ~~rule of the department, be modified in the manner and to the extent and within the~~  
18 ~~limits necessary to permit such use by the department under this chapter; and the~~  
19 ~~modifications shall become effective on the same date as such use becomes~~  
20 ~~permissible under the federal amendments~~ the department may credit any portion  
21 of that part of an employer's contributions to the appropriation under s. 20.445 (1)  
22 (wd).

23           **SECTION 68.** 108.20 of the statutes is repealed and recreated to read:

24           **108.20 Segregated funds. (1) UNEMPLOYMENT ADMINISTRATION FUND.** There  
25 is created a separate, nonlapsible trust fund designated as the unemployment

**SENATE BILL 899**

1 administration fund consisting of moneys credited to the appropriation accounts  
2 under s. 20.445 (1) (wc), (wd), and (wh).

3 **(2) UNEMPLOYMENT PROGRAM INTEGRITY FUND.**

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

5 108.22 **(1)** (am) The interest, penalties, and tardy filing fees levied under pars.  
6 (a), (ac), (ad), and (af) shall be paid to the department and credited to the  
7 administrative account appropriation under s. 20.445 (1) (wd).

8 **SECTION 70.** 108.22 (1m) of the statutes is amended to read:

9 108.22 **(1m)** If any person owes any contributions, reimbursements or  
10 assessments under s. 108.15, 108.151, 108.152, 108.155, or 108.19 (~~1m~~), benefit  
11 overpayments, interest, fees, payments for forfeitures, other penalties, or any other  
12 amount to the department under this chapter and fails to pay the amount owed, the  
13 department has a perfected lien upon the right, title, and interest in all of the  
14 person's real and personal property located in this state in the amount finally  
15 determined to be owed, plus costs. Except where creation of a lien is barred or stayed  
16 by bankruptcy or other insolvency law, the lien is effective upon the earlier of the date  
17 on which the amount is first due or the date on which the department issues a  
18 determination of the amount owed under this chapter and shall continue until the  
19 amount owed, plus costs and interest to the date of payment, is paid, except as  
20 provided in sub. (8) (d). If a lien is initially barred or stayed by bankruptcy or other  
21 insolvency law, it shall become effective immediately upon expiration or removal of  
22 such bar or stay. The perfected lien does not give the department priority over  
23 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges  
24 whose interests have been recorded before the department's lien is recorded.

25 **SECTION 71. Fiscal changes.**



**SENATE BILL 899**

1 (1) The unencumbered balance in the appropriation account under s. 20.445 (1)  
2 (gg), 2019 stats., immediately before the effective date of the repeal of s. 20.445 (1)  
3 (gg), 2019 stats., and the unencumbered balance in the appropriation account under  
4 s. 20.445 (1) (gm), 2019 stats., immediately before the effective date of the repeal of  
5 s. 20.445 (1) (gm), 2019 stats., are transferred to the appropriation account under s.  
6 20.445 (1) (wd), as affected by this act.

7 (2) (a) The unencumbered balance in the appropriation account under s. 20.445  
8 (1) (gc) is transferred to the appropriation account under s. 20.445 (1) (wc).

9 (b) The unencumbered balance in the appropriation account under s. 20.445 (1)  
10 (gd) is transferred to the appropriation account under s. 20.445 (1) (wd).

11 (c) The unencumbered balance in the appropriation account under s. 20.445 (1)  
12 (gh) is transferred to the appropriation account under s. 20.445 (1) (wh).

13 **SECTION 72. Effective date.**

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

15 (END)



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-2897/P1  
MED:skw

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1       **AN ACT to repeal** 20.445 (1) (gg), 20.445 (1) (gm), 108.02 (1), 108.14 (7) (c) and  
2           108.14 (23) (d); **to renumber and amend** 20.445 (1) (gc), 20.445 (1) (gd), 20.445  
3           (1) (gh), 108.14 (12) (e), 108.14 (18), 108.19 (1), 108.19 (1m), 108.19 (1n), 108.19  
4           (1p), 108.19 (1q), 108.19 (1s), 108.19 (2), 108.19 (2m) and 108.19 (4); **to**  
5           **consolidate, renumber and amend** 108.14 (12) (a) to (d), 108.161 (1) and  
6           (1m) and 108.161 (5) and (6); **to amend** 20.445 (1) (n), 20.445 (1) (nb), 20.445  
7           (1) (nd), 20.445 (1) (ne), 20.445 (1) (u), 20.445 (1) (v), 25.17 (1) (xe), 25.17 (1) (xf),  
8           103.05 (5) (d), 108.04 (11) (f), 108.07 (5) (am) (intro.), 108.07 (5) (am) 1., 108.07  
9           (5) (am) 3., 108.07 (6), 108.09 (5) (b), 108.14 (2m), 108.14 (3m), 108.14 (16),  
10          108.16 (5) (c), 108.16 (6) (k), 108.16 (6) (m), 108.16 (8) (f), 108.161 (title), 108.161  
11          (2), 108.161 (3), 108.161 (3e), 108.161 (4), 108.161 (7), 108.161 (8), 108.161 (9),  
12          108.162 (7), 108.17 (2m), 108.17 (3), 108.17 (3m), 108.18 (7) (a) 1., 108.18 (7) (h),  
13          108.19 (1e) (a), 108.19 (1e) (d), 108.19 (1f) (a), 108.19 (1f) (c), 108.22 (1) (am) and  
14          108.22 (1m); **to repeal and recreate** 108.19 (title) and 108.20; and **to create**  
15          20.427 (1) (g), 108.19 (1) (d), 108.19 (1e) (cm) and 108.19 (1m) (e) of the statutes;

1           **relating to:** various changes to the unemployment insurance law and making  
2           an appropriation.

---

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

This bill makes various changes in the unemployment insurance (UI) law, which is administered by the Department of Workforce Development. Significant changes include all of the following:

***Segregated fund***

The bill creates a segregated fund to receive various program revenue moneys received by DWD under the UI law that are not otherwise credited to other segregated funds, including various moneys collected by DWD as interest and penalties under the UI law and all other nonfederal moneys received for the administration of the UI law that are not otherwise appropriated. Current law provides for depositing these revenues in appropriations in the general fund.

***Other changes***

The bill makes various changes to a) reorganize, clarify, and update provisions relating to the financing of the UI law; and b) address numerous out-of-date or erroneous cross-references in the UI law, including all of the following:

1. Repealing and consolidating certain appropriations and making other changes to clarify the funding sources and receiving appropriations for various revenues and expenses under the UI law.
2. Creating a program revenue appropriation for the Labor and Industry Review Commission to collect moneys received for the copying and generation of documents and for other services provided in carrying out its functions.
3. Deleting obsolete references to state laws.
4. Correcting various cross-references that are otherwise incomplete or erroneous.
5. Replacing certain references to provisions in federal acts or to the Internal Revenue Code with references to the U.S. Code in order to facilitate accessibility to federal law.
6. Making other nonsubstantive changes to the UI law to improve organization, modernize language, and provide further clarity, specificity, and consistency in the law.

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

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

3           **SECTION 1.** 20.427 (1) (g) of the statutes is created to read:

1           20.427 (1) (g) *Agency collections*. All moneys received from fees or other  
2 charges for copying of documents, generation of copies of documents from optical disc  
3 or electronic storage, publication of books, and other services provided in carrying  
4 out the functions of the labor and industry review commission.

5           **SECTION 2.** 20.445 (1) (gc) of the statutes is renumbered 20.445 (1) (wc) and  
6 amended to read:

7           20.445 (1) (wc) *Unemployment administration*. ~~All From the unemployment~~  
8 ~~administration fund, all~~ moneys received by the department under s. 108.19 ~~not~~  
9 ~~otherwise appropriated under this subsection (1) for the administration of ch. 108.~~

10          **SECTION 3.** 20.445 (1) (gd) of the statutes is renumbered 20.445 (1) (wd) and  
11 amended to read:

12          20.445 (1) (wd) *Unemployment interest and penalty payments*. ~~All From the~~  
13 ~~unemployment administration fund, all~~ moneys received as interest and penalties  
14 collected under ss. 108.04 (11) (c) and (cm) ~~and (13) (e)~~ and 108.22 except interest and  
15 penalties deposited under s. 108.19 (1q), ~~and forfeitures under s. 103.05 (5), all~~  
16 ~~moneys not appropriated under par. (gg) and 108.20 (3), all moneys received as~~  
17 ~~forfeitures under s. 103.05 (5), all moneys received under s. 108.09 (5) (c), all moneys~~  
18 ~~received under s. 108.14 (16), all moneys received under s. 108.18 (1) (c), all moneys~~  
19 transferred to this appropriation account from the appropriation account under par.  
20 (gh) (wh), ~~and all other nonfederal moneys received for the employment service or~~  
21 ~~for the administration of ch. 108 that are not otherwise appropriated under this~~  
22 ~~subsection, for the payment of benefits specified in s. 108.07 (5) and 1987 Wisconsin~~  
23 ~~Act 38, section 132 (1) (e), for the payment of interest to employers under s. 108.17~~  
24 (3m), for research relating to the condition of the unemployment reserve fund under  
25 s. 108.14 (6), for administration of the unemployment insurance program and federal

1 or state unemployment insurance programs authorized by the governor under s.  
2 16.54, for satisfaction of any federal audit exception concerning a payment from the  
3 unemployment reserve fund or any federal aid disallowance concerning the  
4 unemployment insurance program, for assistance to the department of justice in the  
5 enforcement of ch. 108, for the payment of interest due on advances from the federal  
6 unemployment account under ~~title XII of the social security act~~ 42 USC 1321 to 1324  
7 to the unemployment reserve fund, and for payments made to the unemployment  
8 reserve fund to obtain a lower interest rate or deferral of interest payments on these  
9 advances, ~~except as otherwise provided in s. 108.20.~~

10 **SECTION 4.** 20.445 (1) (gg) of the statutes is repealed.

11 **SECTION 5.** 20.445 (1) (gh) of the statutes is renumbered 20.445 (1) (wh) and  
12 amended to read:

13 20.445 (1) (wh) *Unemployment information technology systems; assessments.*  
14 ~~All~~ From the unemployment administration fund, all moneys received from  
15 assessments levied under s. 108.19 (1e) (a) and ~~1997 Wisconsin Act 39, section 164~~  
16 ~~(2)~~, for the purpose specified in s. 108.19 (1e) (d). The treasurer of the unemployment  
17 reserve fund may transfer moneys from this appropriation account to the  
18 appropriation account under par. ~~(gd)~~ (wd).

19 **SECTION 6.** 20.445 (1) (gm) of the statutes is repealed.

20 **SECTION 7.** 20.445 (1) (n) of the statutes is amended to read:

21 20.445 (1) (n) *Employment assistance and unemployment insurance*  
22 *administration; federal moneys.* All federal moneys received, as authorized by the  
23 governor under s. 16.54, for the administration of employment assistance and  
24 unemployment insurance programs of the department, for the performance of the  
25 department's other functions under subch. I of ch. 106 and ch. 108, and to pay the

1 compensation and expenses of appeal tribunals and of employment councils  
2 appointed under s. 108.14, to be used for such purposes, except as provided in s.  
3 108.161 (3e), and, from the moneys received by this state under ~~section 903~~ 42 USC  
4 1103 (d) of the federal Social Security Act, as amended, to transfer to the  
5 appropriation account under par. (nb) an amount determined by the treasurer of the  
6 unemployment reserve fund not exceeding the lesser of the amount specified in s.  
7 108.161 (4) (d) or the amounts in the schedule under par. (nb), to transfer to the  
8 appropriation account under par. (nd) an amount determined by the treasurer of the  
9 unemployment reserve fund not exceeding the lesser of the amount specified in s.  
10 108.161 (4) (d) or the amounts in the schedule under par. (nd), to transfer to the  
11 appropriation account under par. (ne) an amount not exceeding the lesser of the  
12 amount specified in s. 108.161 (4) (d) or the sum of the amounts in the schedule under  
13 par. (ne) and the amount determined by the treasurer of the unemployment reserve  
14 fund that is required to pay for the cost of banking services incurred by the  
15 unemployment reserve fund, and to transfer to the appropriation account under s.  
16 20.427 (1) (k) an amount determined by the treasurer of the unemployment reserve  
17 fund.

18 **SECTION 8.** 20.445 (1) (nb) of the statutes is amended to read:

19 20.445 (1) (nb) *Unemployment administration; information technology*  
20 *systems.* From the moneys received from the federal government under ~~section 903~~  
21 42 USC 1103 (d) of the federal Social Security Act, as amended, as a continuing  
22 appropriation, the amounts in the schedule, as authorized by the governor under s.  
23 16.54, for the purpose specified in s. 108.19 (1e) (d). All moneys transferred from par.  
24 (n) for this purpose shall be credited to this appropriation account. No moneys may  
25 be expended from this appropriation unless the treasurer of the unemployment

1 reserve fund determines that such expenditure is currently needed for the purpose  
2 specified in s. 108.19 (1e) (d).

3 **SECTION 9.** 20.445 (1) (nd) of the statutes is amended to read:

4 20.445 (1) (nd) *Unemployment administration; apprenticeship and other*  
5 *employment services.* From the moneys received from the federal government under  
6 ~~section 903~~ 42 USC 1103 (d) ~~of the federal Social Security Act, as amended,~~ the  
7 amounts in the schedule, as authorized by the governor under s. 16.54, to be used for  
8 administration by the department of apprenticeship programs under subch. I of ch.  
9 106 and for administration and service delivery of employment and workforce  
10 information services, including the delivery of reemployment assistance services to  
11 unemployment insurance claimants. All moneys transferred from par. (n) for this  
12 purpose shall be credited to this appropriation account. No moneys may be expended  
13 from this appropriation unless the treasurer of the unemployment reserve fund  
14 determines that such expenditure is currently needed for the purposes specified in  
15 this paragraph.

16 **SECTION 10.** 20.445 (1) (ne) of the statutes is amended to read:

17 20.445 (1) (ne) *Unemployment insurance administration and bank service*  
18 *costs.* From the moneys received by this state under ~~section 903 of the federal Social~~  
19 ~~Security Act, as amended~~ 42 USC 1103, all moneys transferred from the  
20 appropriation account under par. (n) to be used for the administration of  
21 unemployment insurance and for the payment of the cost of banking services  
22 incurred by the unemployment reserve fund. No moneys may be expended from this  
23 appropriation unless the treasurer of the unemployment reserve fund determines  
24 that such expenditure is currently needed for the purpose specified in this  
25 paragraph.

1           **SECTION 11.** 20.445 (1) (u) of the statutes is amended to read:

2           20.445 (1) (u) *Unemployment interest payments and transfers.* From the  
3 unemployment interest payment fund, all moneys received from assessments under  
4 s. 108.19 (1m) (a) for the purpose of making the payments and transfers authorized  
5 under s. 108.19 (1m) (f).

6           **SECTION 12.** 20.445 (1) (v) of the statutes is amended to read:

7           20.445 (1) (v) *Unemployment program integrity.* From the unemployment  
8 program integrity fund, all moneys received from sources identified under s. ~~108.19~~  
9 ~~(1s) 108.20 (2)~~ (a) for the purpose of making the payments authorized under s. ~~108.19~~  
10 ~~(1s) 108.20 (2)~~ (b).

11           **SECTION 13.** 25.17 (1) (xe) of the statutes is amended to read:

12           25.17 (1) (xe) Unemployment interest payment fund (s. ~~108.19 (1q)~~ 108.20 (3));

13           **SECTION 14.** 25.17 (1) (xf) of the statutes is amended to read:

14           25.17 (1) (xf) Unemployment program integrity fund (s. ~~108.19 (1s)~~ 108.20 (2));

15           **SECTION 15.** 103.05 (5) (d) of the statutes is amended to read:

16           103.05 (5) (d) The department shall deposit all moneys received under this  
17 subsection in the appropriation account under s. 20.445 (1) (~~gd~~) (wd).

18           **SECTION 16.** 108.02 (1) of the statutes is repealed.

19           **SECTION 17.** 108.04 (11) (f) of the statutes is amended to read:

20           108.04 (11) (f) All amounts forfeited under par. (c) and all collections from  
21 administrative assessments under par. (cm) shall be credited to the administrative  
22 account appropriation under s. 20.445 (1) (wd).

23           **SECTION 18.** 108.07 (5) (am) (intro.) of the statutes is amended to read:

24           108.07 (5) (am) (intro.) Except as provided in sub. (7), whenever benefits  
25 which that would otherwise be chargeable to the fund's balancing account are paid



1 based on wages paid by an employer that is not subject to the contribution  
2 requirements of ss. 108.17 and 108.18, and the benefits are so chargeable under  
3 sub. (3) or s. 108.04 (1) (f) ~~or~~, (5), or (5g) or 108.14 (8n) (e), or under s. 108.16 (6m)  
4 (e) for benefits specified in s. 108.16 (3) (b), the department shall charge the  
5 benefits as follows:

6 **SECTION 19.** 108.07 (5) (am) 1. of the statutes is amended to read:

7 108.07 (5) (am) 1. If no employer from which the claimant has base period  
8 wages is subject to the contribution requirements of ss. 108.17 and 108.18, the  
9 benefits shall be ~~charged to the administrative account and~~ paid from the  
10 appropriation under s. 20.445 (1) ~~(gd)~~ (wd).

11 **SECTION 20.** 108.07 (5) (am) 3. of the statutes is amended to read:

12 108.07 (5) (am) 3. If 2 or more employers from which the claimant has base  
13 period wages are not subject to the contribution requirements of ss. 108.17 and  
14 108.18, and one or more employers from which the claimant has base period wages  
15 are subject to the contribution requirements of ss. 108.17 and 108.18, that  
16 percentage of the employee's benefits which would otherwise be chargeable to the  
17 fund's balancing account under sub. (3) or s. 108.04 (1) (f) ~~or~~, (5), or (5g), or under s.  
18 108.16 (6m) (e) for benefits specified in s. 108.16 (3) (b), shall be ~~charged to the~~  
19 ~~administrative account and~~ paid from the appropriation under s. 20.445 (1) ~~(gd)~~ (wd).

20 **SECTION 21.** 108.07 (6) of the statutes is amended to read:

21 108.07 (6) The department may initially charge benefits otherwise chargeable  
22 ~~to the administrative account~~ payable from the appropriation under s. 20.445 (1)  
23 (wd) as provided under this section to the fund's balancing account, and periodically  
24 reimburse the charges to the balancing account from the ~~administrative account~~  
25 appropriation under s. 20.445 (1) (wd).

1           **SECTION 22.** 108.09 (5) (b) of the statutes is amended to read:

2           108.09 (5) (b) All testimony at any hearing under this section shall be recorded  
3 by electronic means, but need not be transcribed unless either of the parties requests  
4 a transcript before expiration of that party's right to further appeal under this  
5 section and pays a fee to the commission in advance, the amount of which shall be  
6 established by rule of the commission. When the commission provides a transcript  
7 to one of the parties upon request, the commission shall also provide a copy of the  
8 transcript to all other parties free of charge. The transcript fee collected shall be paid  
9 ~~to the administrative account~~ credited to the appropriation account under s. 20.427  
10 (1) (g).

11           **SECTION 23.** 108.14 (2m) of the statutes is amended to read:

12           108.14 (2m) In the discharge of their duties under this chapter an appeal  
13 tribunal, commissioner, or other authorized representative of the department or  
14 commission may administer oaths to persons appearing before them, take  
15 depositions, certify to official acts, and by subpoenas, served in the manner in which  
16 circuit court subpoenas are served, compel attendance of witnesses and the  
17 production of books, papers, documents, and records necessary or convenient to be  
18 used by them in connection with any investigation, hearing, or other proceeding  
19 under this chapter. A party's attorney of record may issue a subpoena to compel the  
20 attendance of a witness or the production of evidence. A subpoena issued by an  
21 attorney must be in substantially the same form as provided in s. 805.07 (4) and must  
22 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of  
23 issuance, send a copy of the subpoena to the appeal tribunal or other representative  
24 of the department responsible for conducting the proceeding. However, in any  
25 investigation, hearing, or other proceeding involving the administration of oaths or

1 the use of subpoenas under this subsection due notice shall be given to any interested  
2 party involved, who shall be given an opportunity to appear and be heard at any such  
3 proceeding and to examine witnesses and otherwise participate therein. Witness  
4 fees and travel expenses involved in proceedings under this chapter may be allowed  
5 by the appeal tribunal or representative of the department at rates specified by  
6 department rules, and shall be paid from the ~~administrative account~~ appropriation  
7 under s. 20.445 (1) (n).

8 **SECTION 24.** 108.14 (3m) of the statutes is amended to read:

9 108.14 (3m) In any court action to enforce this chapter the department, the  
10 commission, and the state may be represented by any licensed attorney who is an  
11 employee of the department or the commission and is designated by either of them  
12 for this purpose or at the request of either of them by the department of justice. If  
13 the governor designates special counsel to defend, in behalf of the state, the validity  
14 of this chapter or of any provision of ~~Title IX of the social security act~~ 42 USC 1101  
15 to 1111, the expenses and compensation of the special counsel and of any experts  
16 employed by the department in connection with that proceeding may be charged to  
17 the ~~administrative account~~ appropriation under s. 20.445 (1) (wd). If the  
18 compensation is being determined on a contingent fee basis, the contract is subject  
19 to s. 20.9305.

20 **SECTION 25.** 108.14 (7) (c) of the statutes is repealed.

21 **SECTION 26.** 108.14 (12) (a) to (d) of the statutes are consolidated, renumbered  
22 108.14 (12) (am) and amended to read:

23 108.14 (12) (am) Consistently with the provisions of ~~pars. (8) and (9) of section~~  
24 ~~303 (a) of Title III of the federal social security act, 42 USC 503 (a) (8) and (9), the~~  
25 department shall expend all moneys received in the federal administrative financing

1 account from any federal agency under said Title III shall be expended 42 USC ch.  
2 7 subch. III solely for the purposes and in the amounts found necessary by said that  
3 agency for the proper and efficient administration of this chapter. (b) ~~Consistently~~  
4 ~~with said provisions of said Title III, any~~ The department shall replace, within a  
5 reasonable time, any such moneys, that were received prior to before July 1, 1941,  
6 and remaining remained unencumbered on said that date, or that were received on  
7 or after said that date, which, because of any action or contingency, have been if the  
8 moneys are lost or have been expended for purposes other than, or in amounts in  
9 excess of, those found necessary by said the federal agency for the proper  
10 administration of this chapter, shall be replaced within a reasonable time. ~~This~~  
11 ~~paragraph is the declared policy of this state, as enunciated by the 1941 legislature,~~  
12 ~~and shall be implemented as further provided in this subsection.~~ (c) If it is believed  
13 ~~that any amount of money thus received has been thus is~~ lost or improperly  
14 expended, the department, on its own motion or on notice from said the federal  
15 agency, shall promptly investigate and determine the matter and shall, depending  
16 on the nature of its determination, take such steps as it may deem considers  
17 necessary to protect the interests of the state. (d) If it is finally determined that  
18 moneys ~~thus received~~ have been ~~thus~~ lost or improperly expended, then the  
19 department shall either make the necessary replacement from ~~those moneys in the~~  
20 ~~administrative account specified in s. 108.20 (2m)~~ the appropriation under s. 20.445  
21 (1) (wd) or shall submit, at the next budget hearings conducted by the governor and  
22 at the budget hearings conducted by the next legislature convened in regular session,  
23 a request that the necessary replacement be made by an appropriation from the  
24 general fund.

1           **SECTION 27.** 108.14 (12) (e) of the statutes is renumbered 108.14 (12) (bm) and  
2 amended to read:

3           108.14 (12) (bm) This subsection shall not be construed to relieve this state of  
4 any obligation existing ~~prior to its enactment~~ before July 1, 1941, with respect to  
5 moneys received ~~prior to~~ before July 1, 1941, ~~pursuant to said Title III under 42 USC~~  
6 ch. 7 subch. III.

7           **SECTION 28.** 108.14 (16) of the statutes is amended to read:

8           108.14 (16) The department shall have duplicated or printed, ~~and shall~~  
9 ~~distribute without charge, such employment security~~ any reports, studies and,  
10 forms, records, decisions, regulations, rules, or other materials, including the text of  
11 this chapter ~~and, the handbook under sub. (23), and other~~ instructional or  
12 explanatory pamphlets for employers or workers, as that it deems necessary for  
13 public information or for the proper administration of this chapter; ~~but the.~~ The  
14 department may collect a reasonable charge, which shall be credited to the  
15 administrative appropriation account under s. 20.445 (1) (wd), for any such item the  
16 cost of which is not fully covered by federal administrative grants.

17           **SECTION 29.** 108.14 (18) of the statutes is renumbered 108.19 (1e) (e) and  
18 amended to read:

19           108.19 (1e) (e) No later than the end of the month following each quarter in  
20 which the department expends moneys derived from assessments levied under ~~s.~~  
21 ~~108.19 (1e)~~ this subsection, the department shall submit a report to the council on  
22 unemployment insurance describing the use of the moneys expended and the status  
23 at the end of the quarter of any project for which moneys were expended.

24           **SECTION 30.** 108.14 (23) (d) of the statutes is repealed.

25           **SECTION 31.** 108.16 (5) (c) of the statutes is amended to read:

1           108.16 (5) (c) While the state has an account in the “Unemployment Trust  
2 Fund”, public deposit insurance charges on the fund’s balances held in banks,  
3 savings banks, savings and loan associations, and credit unions in this state, the  
4 premiums on surety bonds required of the fund’s treasurer under this section, and  
5 any other expense of administration otherwise payable from the fund’s interest  
6 earnings, shall be paid from the ~~administrative account~~ appropriation under s.  
7 20.445 (1) (n) or (ne).

8           **SECTION 32.** 108.16 (6) (k) of the statutes is amended to read:

9           108.16 (6) (k) All payments to the fund from the ~~administrative account~~ as  
10 authorized under s. ~~108.20 (2m)~~ appropriation under s. 20.445 (1) (wd).

11           **SECTION 33.** 108.16 (6) (m) of the statutes is amended to read:

12           108.16 (6) (m) Any amounts transferred to the balancing account from the  
13 unemployment interest payment fund under s. 108.19 (1m) (f).

14           **SECTION 34.** 108.16 (8) (f) of the statutes is amended to read:

15           108.16 (8) (f) The successor shall take over and continue the transferor’s  
16 account, including its positive or negative balance and all other aspects of its  
17 experience under this chapter in proportion to the payroll assignable to the  
18 transferred business and the liability of the successor shall be proportioned to the  
19 extent of the transferred business. The transferor and the successor shall be jointly  
20 and severally liable for any amounts owed by the transferor ~~to the fund and to the~~  
21 ~~administrative account~~ under this chapter at the time of the transfer, but a successor  
22 under par. (c) is not liable for the debts of the transferor except in the case of fraud  
23 or malfeasance.

24           **SECTION 35.** 108.161 (title) of the statutes is amended to read:

1           **108.161** (title) **Federal administrative financing account; Reed Act**  
2 **distributions.**

3           **SECTION 36.** 108.161 (1) and (1m) of the statutes are consolidated, renumbered  
4 108.161 (1) and amended to read:

5           108.161 (1) The fund's treasurer shall maintain within the fund an  
6 employment security "federal administrative financing account", and shall credit  
7 thereto to that account all amounts credited to the fund pursuant to the federal  
8 employment security administrative financing act (of 1954) and section 903 of the  
9 federal social security act, as amended. ~~(1m)~~ The treasurer of the fund shall also  
10 credit to said account under 42 USC 1101 to 1103 and all federal moneys credited to  
11 the fund pursuant to under sub. (8).

12           **SECTION 37.** 108.161 (2) of the statutes is amended to read:

13           108.161 (2) The requirements of ~~said section 903~~ 42 USC 1103 shall control any  
14 appropriation, withdrawal, and use of any moneys in said the federal administrative  
15 financing account.

16           **SECTION 38.** 108.161 (3) of the statutes is amended to read:

17           108.161 (3) Consistently with this chapter and ~~said section 903~~, such 42 USC  
18 1103, moneys in the federal administrative financing account shall be used solely for  
19 benefits or employment security administration by the department, including  
20 unemployment insurance, employment service, apprenticeship programs, and  
21 related statistical operations.

22           **SECTION 39.** 108.161 (3e) of the statutes is amended to read:

23           108.161 (3e) Notwithstanding sub. (3), any moneys allocated under ~~section 903~~  
24 ~~of the federal Social Security Act, as amended,~~ 42 USC 1103 for federal fiscal years  
25 2000 and 2001 and the first \$2,389,107 of any distribution received by this state

1 under ~~section 903 of that act~~ 42 USC 1103 in federal fiscal year 2002 shall be used  
2 solely for unemployment insurance administration.

3 **SECTION 40.** 108.161 (4) of the statutes is amended to read:

4 108.161 (4) ~~Such moneys~~ Moneys in the federal administrative financing  
5 account shall be encumbered and spent for employment security administrative  
6 purposes only pursuant to, and after the effective date of, a specific legislative  
7 appropriation enactment that does all of the following:

8 (a) ~~Stating States~~ for which such purposes and in what amounts the  
9 appropriation is being made ~~to the administrative account created by s. 108.20.~~

10 (b) ~~Directing Directs~~ the fund's treasurer to transfer the appropriated amounts  
11 ~~to the administrative account~~ the appropriation account under s. 20.445 (1) (n) only  
12 as and to the extent that they are currently needed for such expenditures, and  
13 ~~directing directs~~ that there shall be restored to the federal administrative financing  
14 account ~~created by sub. (1)~~ any amount thus transferred ~~which~~ that has ceased to be  
15 needed or available for such expenditures.

16 (c) ~~Specifying Specifies~~ that the appropriated amounts are available for  
17 obligation solely within the 2 years beginning on the appropriation law's date of  
18 enactment. This paragraph does not apply to the appropriations under s. 20.445 (1)  
19 (nd) and (ne) or to any amounts expended from the appropriation under s. 20.445 (1)  
20 (nb) from moneys transferred to this state on March 13, 2002, pursuant to ~~section 903~~  
21 ~~(d) of the federal Social Security Act~~ 42 USC 1103 (d).

22 (d) ~~Limiting Limits~~ the total amount ~~which~~ that may be obligated during any  
23 fiscal year to the aggregate of all amounts credited under sub. (1), including amounts  
24 credited ~~pursuant to~~ under sub. (8), reduced at the time of any obligation by the sum  
25 of the moneys obligated and charged against any of the amounts credited.



1           **SECTION 41.** 108.161 (5) and (6) of the statutes are consolidated, renumbered  
2 108.161 (5m) and amended to read:

3           108.161 **(5m)** The total of the amounts ~~thus~~ appropriated under sub. (4) for use  
4 in any fiscal year shall in no event exceed the moneys available for such use  
5 ~~hereunder~~ under this section, considering the timing of credits ~~hereunder~~ under this  
6 section and the sums already spent or appropriated or transferred or otherwise  
7 encumbered ~~hereunder~~. ~~(6)~~ under this section. The fund's treasurer shall keep a  
8 record of all such ~~times and amounts~~; ~~shall charge~~ transactions and shall do all of the  
9 following:

10           (a) Charge each sum against the earliest credits ~~duly~~ available therefor; ~~shall~~  
11 ~~include~~.

12           (b) Include any sum ~~thus~~ that has been appropriated but not yet spent  
13 ~~hereunder~~ under this section in computing the fund's net balance as of the close of  
14 any month, in line with the federal requirement that any such sum shall, until spent,  
15 be considered part of the fund; ~~and shall certify~~.

16           (c) Certify the relevant facts whenever necessary ~~hereunder~~.

17           **SECTION 42.** 108.161 (7) of the statutes is amended to read:

18           108.161 **(7)** If any moneys appropriated ~~hereunder~~ under this section are used  
19 to buy and hold suitable land, ~~with a view to the future construction of an~~ and to build  
20 a suitable employment security building thereon, and if such land is later sold or  
21 transferred to other use, the proceeds of such sale (, or the value of such land when  
22 transferred), shall be credited to the federal administrative financing account  
23 ~~created by sub. (1)~~ except as otherwise provided in ss. 13.48 (14) and 16.848.

24           **SECTION 43.** 108.161 (8) of the statutes is amended to read:

1           108.161 (8) If any sums are appropriated and spent ~~hereunder~~ under this  
2 section to buy land and to build a suitable employment security building thereon, or  
3 to purchase information technology hardware and software, ~~then~~ any federal  
4 moneys thereafter credited to the fund or paid to the department by way of gradual  
5 reimbursement of such employment security capital expenditures, or in lieu of the  
6 estimated periodic amounts ~~which~~ that would otherwise (, in the absence of such  
7 expenditures), be federally granted for the rental of substantially equivalent  
8 quarters, shall be credited to the federal administrative financing account created  
9 ~~by sub. (1)~~, consistently with any federal requirements applicable to the handling  
10 and crediting of such moneys.

11           **SECTION 44.** 108.161 (9) of the statutes is amended to read:

12           108.161 (9) Any land and building or office quarters acquired under this section  
13 shall continue to be used for employment security purposes. Realty or quarters may  
14 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)  
15 or 16.848 (1) and may not be sold or transferred without the governor's approval. The  
16 proceeds from the sale, or the value of realty or quarters upon transfer, shall be  
17 credited to the federal administrative financing account ~~established in sub. (1)~~ or  
18 credited to the ~~fund established in s. 108.20~~ appropriate appropriation account  
19 under s. 20.445, or both as determined by the department in accordance with federal  
20 requirements. Equivalent substitute rent-free quarters may be provided, as  
21 federally approved. Amounts credited under this subsection shall be used solely to  
22 finance employment security quarters according to federal requirements.

23           **SECTION 45.** 108.162 (7) of the statutes is amended to read:

1           108.162 (7) Any amount appropriated under s. 20.445 (1) (na) ~~which~~ that has  
2 not been obligated shall be available for employment security local office building  
3 projects, consistent with this section and ~~ss. s. 108.161 and 108.20.~~

4           **SECTION 46.** 108.17 (2m) of the statutes is amended to read:

5           108.17 (2m) When a written statement of account is issued to an employer by  
6 the department, ~~showing as duly credited~~ that shows a specified amount received  
7 from the employer under this chapter as having been credited, no other form of state  
8 receipt ~~therefor~~ is required.

9           **SECTION 47.** 108.17 (3) of the statutes is amended to read:

10           108.17 (3) If an employing unit ~~makes application~~ applies to the department  
11 to adjust an alleged overpayment by the employer of contributions or interest under  
12 this chapter, and files such an application within 3 years after the close of the  
13 calendar year in which such payment was made, the department shall ~~make a~~  
14 ~~determination~~ determine under s. 108.10 ~~as to the existence and whether and to~~  
15 ~~what~~ extent of any such an overpayment, and said section shall apply to such  
16 ~~determination~~ exists. Except as provided in sub. (3m), the department shall allow  
17 an employer a credit for any amount determined under s. 108.10 to have been  
18 erroneously paid by the employer, without interest, against its future contribution  
19 payments; or, if the department finds it impracticable to allow the employer such a  
20 credit, it shall refund ~~such~~ the overpayment to the employer, without interest, from  
21 the fund or the ~~administrative account, as the case may be~~ appropriate appropriation  
22 under s. 20.445.

23           **SECTION 48.** 108.17 (3m) of the statutes is amended to read:

24           108.17 (3m) If an appeal tribunal or the commission issues a decision under  
25 s. 108.10 (2), or a court issues a decision on review under s. 108.10 (4), in which it is

1 determined that an amount has been erroneously paid by an employer, the  
2 department shall, from the ~~administrative account~~ appropriation under s. 20.445 (1)  
3 (wd), credit the employer with interest at the rate of 0.75 percent per month or  
4 fraction thereof on the amount of the erroneous payment. Interest shall accrue from  
5 the month which the erroneous payment was made until the month in which it is  
6 either used as a credit against future contributions or refunded to the employer.

7 **SECTION 49.** 108.18 (7) (a) 1. of the statutes is amended to read:

8 108.18 (7) (a) 1. Except as provided in pars. (b) to (i), any employer may make  
9 payments to the fund during the month of November in excess of those required by  
10 this section and s. 108.19 (1), ~~(1e)~~, and ~~(1f)~~. Each payment shall be credited to the  
11 employer's account for the purpose of computing the employer's reserve percentage  
12 as of the immediately preceding computation date.

13 **SECTION 50.** 108.18 (7) (h) of the statutes is amended to read:

14 108.18 (7) (h) The department shall establish contributions, other than those  
15 contributions required by this section and assessments required under s. 108.19 (1),  
16 ~~(1e)~~, and ~~(1f)~~ and contributions other than those submitted during the month of  
17 November or authorized under par. (f) or (i) 2., as a credit, without interest, against  
18 future contributions payable by the employer or shall refund the contributions at the  
19 employer's option.

20 **SECTION 51.** 108.19 (title) of the statutes is repealed and recreated to read:

21 **108.19 (title) Special assessments.**

22 **SECTION 52.** 108.19 (1) of the statutes is renumbered 108.19 (1) (a) and  
23 amended to read:

24 108.19 (1) (a) Each employer subject to this chapter shall regularly ~~contribute~~  
25 ~~to the administrative account at the rate of two-tenths of one~~ pay an assessment

1 equal to 0.2 percent per year on its payroll, except that the department may prescribe  
2 at the close of any fiscal year such lower rates ~~of contribution~~ under this section  
3 subsection, to apply to classes of employers throughout the ensuing fiscal year, as will  
4 in the department's judgment adequately finance the administration of this chapter,  
5 and as will in the department's judgment fairly represent the relative cost of the  
6 services rendered by the department to each such class.

7 **SECTION 53.** 108.19 (1) (d) of the statutes is created to read:

8 108.19 (1) (d) Assessments under this subsection shall be credited to the  
9 appropriation account under s. 20.445 (1) (wc).

10 **SECTION 54.** 108.19 (1e) (a) of the statutes is amended to read:

11 108.19 (1e) (a) Except as provided in par. (b), each employer, other than an  
12 employer that finances benefits by reimbursement in lieu of contributions under s.  
13 108.15, 108.151, or 108.152 shall, in addition to other ~~contributions~~ amounts payable  
14 under s. 108.18 and this section, pay an assessment ~~to the administrative account~~  
15 for each year ~~prior to~~ before the year 2010 equal to the lesser of 0.01 percent of its  
16 payroll for that year or the solvency contribution that would otherwise be payable  
17 by the employer under s. 108.18 (9) for that year.

18 **SECTION 55.** 108.19 (1e) (cm) of the statutes is created to read:

19 108.19 (1e) (cm) Assessments under this subsection shall be credited to the  
20 appropriation under s. 20.445 (1) (wh).

21 **SECTION 56.** 108.19 (1e) (d) of the statutes is amended to read:

22 108.19 (1e) (d) The department may expend the moneys received from  
23 assessments levied under this subsection in the amounts authorized under s. 20.445  
24 (1) ~~(gh)~~ (wh) for the renovation and modernization of unemployment insurance  
25 information technology systems, specifically including development and

1 implementation of a new system and reengineering of automated processes and  
2 manual business functions.

3 **SECTION 57.** 108.19 (1f) (a) of the statutes is amended to read:

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

10 (d) Assessments under this ~~paragraph~~ subsection shall be deposited in the  
11 unemployment program integrity fund.

12 **SECTION 58.** 108.19 (1f) (c) of the statutes is amended to read:

13 108.19 (1f) (c) Notwithstanding par. (a), the department may, if it finds that the  
14 full amount of the levy is not required to effect the purposes specified in ~~sub. (1s) s.~~  
15 108.20 (2) (b) for any year, prescribe a reduced levy for that year and in such case shall  
16 publish in the notice under par. (b) the rate of the reduced levy.

17 **SECTION 59.** 108.19 (1m) of the statutes is renumbered 108.19 (1m) (a) and  
18 amended to read:

19 108.19 (1m) (a) Each employer subject to this chapter as of the date a rate is  
20 established under this subsection shall pay an assessment ~~to the unemployment~~  
21 ~~interest payment fund~~ at a rate established by the department sufficient to pay  
22 interest due on advances from the federal unemployment account under ~~Title XII of~~  
23 ~~the federal social security act~~, 42 USC 1321 to 1324. The rate established by the  
24 department for employers who finance benefits under s. 108.15 (2), 108.151 (2), or  
25 108.152 (1) shall be 75 percent of the rate established for other employers. The

1 amount of any employer's assessment shall be the product of the rate established for  
2 that employer multiplied by the employer's payroll of the previous calendar year as  
3 taken from quarterly employment and wage reports filed by the employer under s.  
4 108.205 (1) or, in the absence of the filing of such reports, estimates made by the  
5 department.

6 (d) Each assessment made under this subsection is due within 30 days after the  
7 date the department issues the assessment. ~~If the~~

8 (f) The department shall use amounts collected from employers under this  
9 subsection ~~exceed the amounts needed to pay interest due on advances from the~~  
10 federal unemployment account under 42 USC 1321 to 1324. If the amounts collected  
11 exceed the amounts needed to pay that interest for a given year, the department shall  
12 use any the excess to pay interest owed in subsequent years on advances from the  
13 federal unemployment account. If the department determines that additional  
14 interest obligations are unlikely, the department shall transfer the excess to the  
15 fund's balancing account ~~of the fund~~, the unemployment program integrity fund, or  
16 both in amounts determined by the department.

17 **SECTION 60.** 108.19 (1m) (e) of the statutes is created to read:

18 108.19 (1m) (e) Assessments under this subsection shall be deposited in the  
19 unemployment interest payment fund.

20 **SECTION 61.** 108.19 (1n) of the statutes is renumbered 108.19 (1m) (b) and  
21 amended to read:

22 108.19 (1m) (b) The department shall publish as a class 1 notice under ch. 985  
23 any rate established under ~~sub. (1m) par. (a)~~ within 10 days of after the date that the  
24 rate is established.

1           **SECTION 62.** 108.19 (1p) of the statutes is renumbered 108.19 (1m) (c) and  
2 amended to read:

3           108.19 **(1m)** (c) Notwithstanding ~~sub. (1m) par. (a)~~, an employer having a  
4 payroll of \$25,000 or less for the preceding calendar year is exempt from any  
5 assessment under ~~sub. (1m)~~ this subsection.

6           **SECTION 63.** 108.19 (1q) of the statutes is renumbered 108.20 (3) and amended  
7 to read:

8           108.20 **(3)** UNEMPLOYMENT INTEREST PAYMENT FUND. There is created a separate,  
9 nonlapsible trust fund designated as the unemployment interest payment fund  
10 consisting of all amounts collected under ~~sub. s. 108.19~~ (1m) (a) and all interest and  
11 penalties on those amounts collected under s. 108.22.

12           **SECTION 64.** 108.19 (1s) of the statutes is renumbered 108.20 (2), and 108.20  
13 (2) (a) 2. and 3., as renumbered, are amended to read:

14           108.20 **(2)** (a) 2. Assessments levied and deposited into the unemployment  
15 program integrity fund under ~~sub. (1f)~~ s. 108.19 (1f).

16           3. Amounts transferred under ~~sub. (1m)~~ s. 108.19 (1m) (f).

17           **SECTION 65.** 108.19 (2) of the statutes is renumbered 108.19 (1) (b) and  
18 amended to read:

19           108.19 **(1)** (b) If the department finds, at any time within a fiscal year for which  
20 it has prescribed lower contribution rates to the administrative account than the  
21 maximum rate permitted under ~~sub. (1) par. (a)~~, that such lower rates will not  
22 adequately finance the administration of this chapter or are excessive for that  
23 purpose, the department may by general rule prescribe a new schedule of rates in no  
24 case exceeding the specified maximum to apply under this section subsection for the  
25 balance of the fiscal year.



1           **SECTION 66.** 108.19 (2m) of the statutes is renumbered 108.19 (1) (c) and  
2 amended to read:

3           108.19 (1) (c) Within the limit specified by ~~sub. (1)~~ under par. (a), the  
4 department may by rule prescribe at any time as to any period any such rate or rates  
5 or schedule as it deems necessary and proper ~~hereunder~~ under this subsection.  
6 Unless thus prescribed, no such rate or rates or schedule shall apply under ~~sub. (1)~~  
7 ~~or (2)~~ par. (a) or (b).

8           **SECTION 67.** 108.19 (4) of the statutes is renumbered 108.18 (1) (c) and  
9 amended to read:

10           108.18 (1) (c) ~~If section 303 Notwithstanding par. (b), if 42 USC 503 (a) (5) of~~  
11 ~~title III of the social security act and section 26 USC 3304 (a) (4) of the internal~~  
12 ~~revenue code are amended to permit a state agency to use, in financing~~  
13 ~~administrative expenditures incurred in carrying out its employment security~~  
14 ~~functions, some any part of the moneys collected or to be collected under the state~~  
15 ~~unemployment insurance law, an employer's contributions in partial or complete~~  
16 ~~substitution for grants under title III 42 USC 501 to 506, then this chapter shall, by~~  
17 ~~rule of the department, be modified in the manner and to the extent and within the~~  
18 ~~limits necessary to permit such use by the department under this chapter; and the~~  
19 ~~modifications shall become effective on the same date as such use becomes~~  
20 ~~permissible under the federal amendments~~ the department may credit any portion  
21 of that part of an employer's contributions to the appropriation under s. 20.445 (1)  
22 (wd).

23           **SECTION 68.** 108.20 of the statutes is repealed and recreated to read:

24           **108.20 Segregated funds. (1) UNEMPLOYMENT ADMINISTRATION FUND.** There  
25 is created a separate, nonlapsible trust fund designated as the unemployment

1 administration fund consisting of moneys credited to the appropriation accounts  
2 under s. 20.445 (1) (wc), (wd), and (wh).

3 **(2) UNEMPLOYMENT PROGRAM INTEGRITY FUND.**

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

5 108.22 **(1)** (am) The interest, penalties, and tardy filing fees levied under pars.  
6 (a), (ac), (ad), and (af) shall be paid to the department and credited to the  
7 administrative account appropriation under s. 20.445 (1) (wd).

8 **SECTION 70.** 108.22 (1m) of the statutes is amended to read:

9 108.22 **(1m)** If any person owes any contributions, reimbursements or  
10 assessments under s. 108.15, 108.151, 108.152, 108.155, or 108.19 ~~(1m)~~, benefit  
11 overpayments, interest, fees, payments for forfeitures, other penalties, or any other  
12 amount to the department under this chapter and fails to pay the amount owed, the  
13 department has a perfected lien upon the right, title, and interest in all of the  
14 person's real and personal property located in this state in the amount finally  
15 determined to be owed, plus costs. Except where creation of a lien is barred or stayed  
16 by bankruptcy or other insolvency law, the lien is effective upon the earlier of the date  
17 on which the amount is first due or the date on which the department issues a  
18 determination of the amount owed under this chapter and shall continue until the  
19 amount owed, plus costs and interest to the date of payment, is paid, except as  
20 provided in sub. (8) (d). If a lien is initially barred or stayed by bankruptcy or other  
21 insolvency law, it shall become effective immediately upon expiration or removal of  
22 such bar or stay. The perfected lien does not give the department priority over  
23 lienholders, mortgagees, purchasers for value, judgment creditors, and pledges  
24 whose interests have been recorded before the department's lien is recorded.

25 **SECTION 71. Fiscal changes.**



Date: April 20, 2023  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI RULE CHANGE  
Amend Administrative Rules Regarding UI Hearings**

**1. Description of Proposed Change**

Current law provides that unemployment insurance hearings may be held in-person, by telephone, or by videoconference. Under current DWD § 140.11, an appeal tribunal may conduct a telephone or videoconference hearing “when it is impractical for the appeal tribunal to conduct an in-person hearing, when necessary to ensure a prompt hearing or when one or more of the parties would be required to travel an unreasonable distance to the hearing location.” That section also provides that a party may appear in person at the appeal tribunal’s location if the hearing is scheduled by telephone or videoconference. However, the Department’s limited hearing office space and ALJ scheduling make it impractical for a party scheduled for a telephone or video conference hearing to appear in person without advance notice.

Since March 2020, Wisconsin unemployment insurance benefit appeal hearings have virtually all been held by telephone. The Department will continue to hold telephone hearings and will increase videoconferencing capabilities. In the months before the pandemic, about 99.6% of hearings were held by telephone. Even before the pandemic, other states held nearly all their unemployment hearings by telephone:

<b>State</b>	<b>Percent of UI hearings by phone (2019)</b>
Illinois	99.9%
Minnesota	99.9%
Michigan	94%
Iowa	98%
Indiana	96%
Nebraska	99% (2 in-person/year)

Ohio	98%
Kansas	99%

The Department proposes to amend chapter DWD 140 to provide that, while either party to a matter may continue to request in-person hearings, it is the hearing office's discretion, within standards set by the Department, whether to grant that request. The Department also proposes to clarify language in DWD chapter 140 regarding the following: inspection of hearing records under DWD § 140.09; Departmental assistance for people with disabilities at hearings under DWD § 140.19; and postponement requests when the hearing exhibits are not sent timely under DWD § 140.08. Further, the Department seeks to correct minor and technical language in DWD chapter 140.

## **2. Proposed Rule Changes**

If the attached draft scope statement is approved, the Department will draft amendments to DWD chapter 140 and will present that draft to the Council for review before the rule is finalized.

## **3. Effects of Proposed Change**

- a. **Policy:** The proposed change will amend Wisconsin's unemployment insurance administrative rules to ensure that parties have access to hearings, whether in person or by telephone or videoconferencing, while recognizing the limitations on physical space availability for hearings. It will also ensure parties receive records timely in advance of the hearing. Finally, it seeks to comport the language under DWD 140.09 to the confidentiality provisions under ch. DWD 149.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** This proposal is expected to reduce travel costs for parties and witnesses attending unemployment insurance hearings.

**4. State and Federal Issues**

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

**5. Proposed Effective/Applicability Date**

This proposal would be effective when the Legislature approves the amended rule.

## **STATEMENT OF SCOPE**

### **Department of Workforce Development**

**Rule No:** DWD 140

**Relating to:** Unemployment insurance hearings.

**Rule Type:** Permanent

#### **Detailed description of the objective of the proposed rule.**

The proposed rule will amend sections of ch. DWD 140, Wis. Admin. Code, related to hearing notices; in-person, telephone, and videoconference unemployment insurance hearings procedures; hearing records; and accessibility for attending hearings. The rule will specify the procedure by which a party or witness may request to attend a hearing in-person. The rule will also permit postponement of a hearing if the Department does not send the proposed hearing exhibits in advance of a benefit hearing. The rule will also clarify what unemployment insurance records may be released to a person who is not a party or a party's representative.

#### **Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives.**

Currently, ch. DWD 140 (Unemployment Insurance Appeals) specifies the requirements for unemployment insurance hearing notices, the procedures for conducting telephone or videoconference hearings, the treatment of hearing records, and the requirements for the Department to provide assistance to people with disabilities at hearings. Chapter DWD 140 also provides for postponement of hearings in certain circumstances. Furthermore, ch. DWD 140 outlines when parties, parties' representatives, and other persons may access and inspect enumerated types of hearing records.

The Department proposes to amend ch. DWD 140 to require that the hearing notice provide the method of the hearing (in person, telephone, or videoconference). The rule will also identify the process by which a party can request an in-person hearing or a hearing by video-conference. Also, the Department proposes to amend ch. DWD 140 to provide that it is within the discretion of the hearing office whether to hold an in-person hearing or to require the parties to appear by telephone or videoconference and to provide the guidelines under which the hearing office shall make such determinations, such as technological constraints and the need to accommodate individuals with disabilities. Further, the rule will allow a party to request an in-person hearing, subject to the guidelines. Chapter DWD 140 will also be amended to ensure that the Department is timely and efficiently responding to requests for reasonable accommodations and to describe the process by which a party will make such a request.

The Department also proposes to amend ch. DWD 140 to permit a party to request a postponement of benefit hearings when the Department does not timely send the hearing exhibits to a party.

Finally, consistent with ch. DWD 149, the rule will update ch. DWD 140 to provide that certain hearing records are confidential unemployment information and not subject to release to individuals who are not parties or representatives of the parties.

The policy alternative is to do nothing. If the Department does not promulgate the proposed rule, the unemployment insurance appeals process may not be as clear and efficient as it could be.

**Detailed explanation of statutory authority for the rule, including the statutory citation and language.**

The Department has statutory authority for the proposed rule.

“The department may adopt and enforce all rules which it finds necessary or suitable to carry out this chapter.” Wis. Stat. § 108.14(2).

“Except as provided in s. 901.05, the manner in which claims shall be presented, the reports thereon required from the employee and from employers, and the conduct of hearings and appeals shall be governed by general department rules, whether or not they conform to common law or statutory rules of evidence and other technical rules of procedure, for determining the rights of the parties.” Wis. Stat. § 108.09(5)(a).

**Estimate of amount of time that state employees will spend developing the rule and other resources necessary to develop the rule.**

The estimated time is 80 hours.

**List with description of all entities that may be affected by the proposed rule.**

Currently, all employees and employers who appear at unemployment insurance appeal hearings appear by telephone. Before the pandemic, nearly all unemployment insurance appeal hearings were held by telephone. The proposed rule will affect employees and employers who attend unemployment insurance appeal hearings. Employees and employers who previously appeared at unemployment insurance appeal hearings in person will save travel time and costs by appearing by telephone or videoconference. The proposed rule will also standardize the process for requesting an accommodation for hearings for individuals with disabilities who are parties or witnesses for the hearing. The rule changes will better allow parties to prepare for hearing. Finally, the proposed rule will clarify which hearing records, subject to redaction, may be released to non-parties.



**Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.**

Federal law requires that state law conform to and comply with federal regulations. *See* 20 C.F.R. § 601.5.

**Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses).**

The proposed rule is not expected to have an adverse economic impact on any business or small business.

**Contact Person:** Janell Knutson, Director, Bureau of Legal Affairs, Unemployment Insurance Division, at (608) 266-1639 or [janell.knutson@dwd.wisconsin.gov](mailto:janell.knutson@dwd.wisconsin.gov).

DRAFT

# Unemployment Insurance Advisory Council

## Tentative Schedule

### 2023-2024

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January 19, 2023	Scheduled Meeting of UIAC Discuss Public Hearing Comments
April 20, 2023	Scheduled Meeting of UIAC Introduce Department Proposals
May 18, 2023	Scheduled Meeting of UIAC Discuss Department Proposals Exchange of Labor & Management Law Change Proposals
June 15, 2023	Scheduled Meeting of UIAC Discuss Department Proposals Discuss Labor & Management Proposals
July 20, 2023	Scheduled Meeting of UIAC Discussion and Agreement on Law Changes for Agreed Upon Bill
August 17, 2023	Scheduled Meeting of UIAC Review and Approval of Department Draft of Agreed Upon Bill
September 21, 2023	Scheduled Meeting of UIAC Review and Approval of LRB Draft of Agreed Upon Bill
<b>October 19, 2023</b>	<b>Scheduled Meeting of UIAC</b> <b>Final Review and Approval of LRB Draft of Agreed Upon Bill</b>
November 16, 2023	Scheduled Meeting of UIAC <b>Agreed Upon Bill Sent to the Legislature for Introduction</b> UIAC Activities Report (due by January 2024)
December 2023	Tentative Meeting of UIAC
<b>January 2024</b>	<b>Tentative Agreed Upon Bill Sent to the Legislature for Introduction in the Spring 2020 Legislative Session</b>