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# ALEX A. DALLMAN

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STATE REPRESENTATIVE • 41<sup>ST</sup> ASSEMBLY DISTRICT

## Testimony in favor of Assembly Bill 937

*Assembly Committee on Workforce Development*

February 8<sup>th</sup>, 2022

Thank you, Chairman Petryk and committee members, for allowing me to testify before you concerning Assembly Bill 937, relating to the amount of benefits received under unemployment insurance. I would also like to thank Senator Feyen for his leadership on this legislation.

Our current unemployment program provides for 26 weeks of unemployment no matter the current economic conditions and availability to employment. This bill would fix the problem of prolonged unemployed benefits that are keeping people out of the workforce. Benefit weeks would max out at 26, if the unemployment rate was over 9%. The amount of weeks would be reduced according to the table included in the bill all the way down to 14 weeks if unemployment levels reach 3.5%.

The pandemic has proven that our unemployment program is in need of reform. Our current programs provide for a prolonged stay on welfare programs, when we should be encouraging people to get back to work. States such as Florida, Georgia, North Carolina, and Tennessee that have implemented reforms such as this bill, have yielded more financially stable unemployment funds, 71% lower benefit costs, 59% lower unemployment insurance taxes, and enrollees moving off of the unemployment benefits and back into the workforce twice as fast.

We need to move our focus of public benefits from “unemployment insurance” to “re-employment insurance”. In the economic climate we have right now, there is no reason for a person to need half of a year to procure a high-paying, quality job.

Thank you again, Chairman Petryk, for the opportunity to testify before this committee today and I would be happy to answer any questions you may have.



**DAN FEYEN**

**STATE SENATOR**

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To: The Assembly Committee on Workforce Development  
From: Sen. Dan Feyen  
Re: Assembly Bill 937

Hello, Chairman Petryk and committee members. Thank you for taking the time to hold a public hearing on Assembly Bill 937.

Wisconsin is experiencing a workforce shortage. Our state has record low unemployment levels yet we also have increasing job vacancies in every sector. We need more people in the workforce and the COVID-19 pandemic has shown that our unemployment system needs reform.

Currently in Wisconsin, an individual eligible for unemployment can receive up to 26 weeks of compensation, no matter the current workforce conditions. This can inhibit people from returning to work.

Assembly Bill 937 would change the way our state determines how long a person is eligible for unemployment. Instead of the blanket 26 weeks, this bill would index the compensation length to the current unemployment rate in Wisconsin. For example, if the state's unemployment rate is less than 3.5%, an individual would only be eligible for 14 weeks of UI. The length would max out at 26 weeks if the state's unemployment rate was over 9%.

Numerous other states have already made this change and have seen dramatic decreases in the number of weeks individuals are on unemployment. These states have also seen decreases in unemployment insurance taxes and healthier unemployment funds. The indexing formula used in this legislation was modeled off the other states that have already made this change. This bill also makes these changes to the number of supplemental benefit weeks a person is eligible for.

Unemployment insurance is meant to be temporary. When there are a lot of jobs available, there is no reason why a person needs to be on unemployment for 26 weeks. This common-sense change will incentivize individuals to get back to work quicker.

Thank you again for holding a public hearing on this important legislation.



# Testimony in Support of Assembly Bill 937

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**Wisconsin State Assembly  
Committee on Workforce Development**

February 8, 2022

Chase Martin

*Visiting Fellow*

Opportunity Solutions Project

Chairman and members of the committee,

My name is Chase Martin, and I am a visiting fellow at Opportunity Solutions Project (OSP). OSP is a non-profit, non-partisan advocacy organization dedicated to advancing policies that reduce barriers to work and protect state benefits for the truly needy.

Thank you for hearing this legislation before your committee. I am submitting this testimony in support of A.B. 937.

The bill before you today has strong potential to help move Wisconsin's economy forward. I'd like to highlight those benefits as you consider lending your support to the legislation. Here is the bottom line: A.B. 937 will help unemployed people get back to work more quickly, help Wisconsin businesses fill open jobs, protect the unemployment trust fund from depletion, and prevent the need for future tax hikes on businesses to replenish the trust fund.

First, it is no secret to anyone here that there are thousands of open jobs across the state. In fact, according to the U.S. Department of Labor, there are more than 200,000 open jobs in Wisconsin.<sup>1</sup> We know that from the data, but you also know that from driving around your districts every day, where there are "help wanted" signs in the front windows of every business. We also know that unemployment benefits are supposed to be a short-term hand up to help someone get reemployed, not a long-term benefits program to sustain them.

That's where A.B. 937 comes into play. It ensures that Wisconsin's unemployment program is responsive to current economic conditions. It makes the program dynamic and responsive to the needs of businesses and workers by indexing the maximum number of weeks someone can receive benefits to the economic conditions. When times are tough and unemployment is high, it allows for the current maximum of 26 weeks—nearly six months—of benefits. But when unemployment is very low, and jobs are plentiful, the maximum weeks drop down to correspond with the economic conditions. In states that have laws similar to A.B. 937, the average unemployed worker leaves the program 4.6 weeks sooner, or more than 25 percent faster.<sup>2</sup> People get back to work quickly and businesses have the employees they need to be successful and grow the economy.

Those businesses also fund the state's unemployment trust fund through their taxes. And when the trust fund becomes depleted, businesses may well be on the hook for a tax increase, something that I'm sure this committee would like to avoid. Wisconsin's unemployment insurance (UI) trust fund has been tapped extensively in the last two years. In fact, Wisconsin's trust fund level is down by more than 40 percent compared to January 2020.<sup>3</sup> If you do nothing, this decline may continue, putting the trust fund at risk and forcing Wisconsin to either borrow funds from the federal government, eat into other state funding priorities, or raise taxes on businesses—or all three.

A.B. 937 will help preserve the trust fund and protect against tax increases as well. Several states have adopted this approach with great success, helping to restore their trust funds, get people back to work, and lower taxes on businesses. For example, Florida, Georgia and North Carolina adopted this same approach, and employers in those states pay approximately \$1.90 in UI taxes for every \$1,000 in payroll. Wisconsin businesses pay \$4.40 for every \$1,000 in payroll.<sup>4</sup> In A.B. 937, Wisconsin

has the opportunity to not only to protect unemployment trust fund, but also to potentially provide businesses with tax relief down the road as the fund stabilizes.

In closing, it is worth noting that the states I mentioned that saw such great results with unemployment indexing set the maximum weeks of unemployment benefits at 20 weeks when unemployment is higher. This means A.B. 937 is already a compromise version of this reform, in that it maintains a full 26 weeks at the top end.

Overall, A.B. 937 will help unemployed people get back to work more quickly and help Wisconsin business fill open jobs, while also protecting the unemployment trust fund and preventing future tax hikes on businesses. It's a strong bill and it's worthy of your support.

Thank you for your time.

Chase Martin  
*Visiting Fellow*  
Opportunity Solutions Project (OSP)

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<sup>1</sup> U.S. Bureau of Labor Statistics – Jobs opening data by state, Nov 2021. <https://www.bls.gov/news.release/jltst.t01.htm>.

<sup>2</sup> Jonathan Ingram and Hayden Dublois, "Indexing unemployment in the wake of COVID-19", Foundation for Government Accountability (2021), <https://thefga.org/paper/indexing-unemployment-in-the-wake-of-covid19/>.

<sup>3</sup> Treasury Direct, "Unemployment Trust Fund Report Selection," U.S. Department of the Treasury (2022), <https://www.treasurydirect.gov/govt/reports/tbp/account-statement/report.html>.

<sup>4</sup> Jonathan Ingram and Hayden Dublois, "Indexing unemployment in the wake of COVID-19", Foundation for Government Accountability (2021), <https://thefga.org/paper/indexing-unemployment-in-the-wake-of-covid19/>.

# LEGAL ACTION OF WISCONSIN

Providing free legal services to low-income Wisconsin clients since 1968 • Proporcionando servicios legales gratuitos a clientes de bajos ingresos en Wisconsin desde 1968

**TO:** Assembly Committee on Workforce Development  
**FROM:** Abby Bar-Lev Wiley, Legislative Director, Legal Action of Wisconsin  
**RE:** Impact of AB 937/SB 906 on Legal Action's Clients  
**DATE:** February 8, 2022

Thank you for the opportunity to provide comments on AB 937/SB 906. Legal Action of Wisconsin (LAW) is the largest non-profit law firm providing high-quality, free civil legal aid to low-income people in 39 of Wisconsin's southern counties. Our broad reach and expertise mean that we see what poverty looks like over a wide swath of the state, from urban and rural areas, from farmworkers to construction workers. One of our priority areas focuses on helping clients secure and maintain the government benefits necessary to meet their most basic needs including food, shelter, health, and income. Legal Action has serious concerns about how AB 937/SB 906 would impact our low-income clients.

### ***People with low incomes want to find family-sustaining jobs***

AB 937/SB 906 is a misguided attempt to get people to work, but would have a devastating impact on Wisconsin's most economically vulnerable families, including our low-income clients. The bill makes a false assumption that people prefer to continue collecting unemployment insurance benefits instead of accepting jobs that pay a family-sustaining wage. We have never encountered this issue with our low-income clients at Legal Action. People want the dignity of working to maintain their families and to create a future for themselves and those they love. When they lose employment through no fault of their own and begin applying for unemployment benefits, they face a bewildering and glacial bureaucracy. They must satisfy onerous and confusing work search requirements. The system works slowly, and benefits are often delayed. Given a choice between a safe, well-paying job and unemployment benefits, our clients would choose work every time. Under Wisconsin law, they are already required under most circumstances to accept offered employment that is comparable to the employment they have lost. Most unemployment compensation recipients are thus simply individuals—and their families struggling to get by—trying to get back into the workforce under tremendous financial stress.

### ***AB 937/SB 906 would harm the economy, increase reliance on state benefits, cast more families into crisis and therefore make it harder to obtain employment***

The purpose of unemployment insurance benefits under Wisc. 108.01 recognizes the perilous economic impact of unemployment: "The decreased and irregular purchasing power of wage earners in turn vitally affects the livelihood of farmers, merchants and manufacturers, results in a decreased demand for their products, and thus tends partially to paralyze the economic life of the entire state. *In good times and in bad times unemployment is a heavy social cost, directly affecting many thousands of wage earners.*" (emphasis added). Unemployment insurance programs support not only the individuals who receive the benefits, but the business supported by those consumers, and the economy at large.

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Creating artificial requirements to “speed up” this process has historically had profound negative consequences. Benefit cliffs that tie unemployment insurance availability to average state unemployment rate, like the ones this bill proposes, generally create higher rates of food insecurity and housing instability, disproportionately impacting people of color.<sup>1</sup> Right now, the maximum amount someone can receive in unemployment insurance benefits in Wisconsin is \$370 per week. That is a *maximum* of \$1,480 per month, which must be split among utility bills, rent, groceries, childcare, medical bills, car payments, and more. As people search for family-sustaining employment, their unemployment insurance benefits are often the sole reason they can keep the lights on, the heat running, the rent paid, and buy new socks or shoes or clothes for growing children. Time and again, unemployment insurance has been found to aid the economy by ensuring that workers who lose employment through no fault of their own can continue to contribute to the economy. During the Great Recession, for example, every \$1 of unemployment insurance generated \$1.61 into local and state economies.<sup>2</sup> Research “shows definitively” that “spending falls much further in those households afflicted by job loss when they do not receive UI benefits.”<sup>3</sup> Had Congress’s \$600 boost to unemployment insurance benefits in the CARES Act been extended through mid-2021, the Economic Policy Institute estimated that the extension would have provided “an average quarterly boost to gross domestic product (GDP) of 3.7% and employment of 5.1 million workers.”<sup>4</sup> Slashing the number of weeks that someone can get unemployment benefits would not ensure that all our clients will immediately become reemployed. But it would insure that money is taken out of the economy, that more people would be in need of other state benefits, and that more families would fall deeper into financial crisis. Those impacts would make it more difficult for individuals to get good jobs. The unhoused, the hungry, and those in other financial crisis often cannot pay for transportation, maintain access to cell phone and the internet, or provide employers with an address to be contacted at.

### ***State unemployment rate is not an accurate tool for measuring need***

AB 937/SB 906 reflects a fundamentally flawed assumption about basic economic principals. The rationale appears to be that when the economy seems to be doing well, i.e., when the state average unemployment rate is lower, people need fewer weeks of unemployment insurance benefits because they should be able to find decent jobs more quickly. That rationale ignores the obvious truth that general trends, state-wide and nationwide, disguise extreme local and regional differences. Some populations or areas of the state experience dramatically different

<sup>1</sup> Nzingha Hooker & Alexa Tapia, Slashing Unemployment Benefit Weeks Based on Jobless Rates Hurts Workers of Color Most, Nat’l Employment Law Project (May 2021), available at <https://s27147.pcdn.co/wp-content/uploads/UI-Indexing-Policy-Brief-05-14-2021.pdf>.

<sup>2</sup> *Id.* at 3.

<sup>3</sup> Josh Bivens, *Cutting off the \$600 boost to unemployment benefits would be both cruel and bad economics*, Economic Policy Inst., June 26, 2020, <https://www.epi.org/blog/cutting-off-the-600-boost-to-unemployment-benefits-would-be-both-cruel-and-bad-economics-new-personal-income-data-show-just-how-steep-the-coming-fiscal-cliff-will-be/>.

<sup>4</sup> *Id.*

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unemployment rates than the state average, which vary by race, geography, and labor sector. For example, Jackson County's unemployment rate in December 2021 was 3.2% while the state average was 2.8%; nationwide, agricultural work is facing a 9.8% unemployment rate<sup>5</sup>; and in June 2020, Wisconsin's economy ranked last in racial equity among all 50 U.S. states, including that the state's racial gap in unemployment rates surpassed that of 47 other states.<sup>6</sup> The state average unemployment rate is simply an inadequate tool to determine on-the-ground need for unemployment insurance. Secondly, if someone is unemployed when the unemployment rate is low, it can be particularly difficult to secure employment given that, presumably, there are fewer open positions. It does not make sense to prematurely cut off an individual's unemployment insurance benefits just because the unemployment rate is low.

## ***AB 937/SB 906 does not help people obtain jobs***

Unemployment insurance is a critical safety net that allows people to make ends meet while they are searching for a job. AB 937/SB 906 does nothing to help create better-paying jobs. Nor does it help struggling families who live in job-deserts or who cannot, because of the economic crisis of the last two years, afford a job, find safe housing, or secure daycare for their children. Instead, AB 937/SB 906 threatens to increase the economic pressure on families trying desperately to get by. Ironically, it would also increase dependence on public benefits as people lose unemployment insurance benefits before they are able to obtain family-sustaining employment. At Legal Action, we know that people desperately prefer to find good jobs than stay on unemployment. Unfortunately, AB 937/SB 906 is a solution in search of a problem, while making lives harder for families who have fallen on hard times.

Thank you for your consideration.

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<sup>5</sup> See Staista Research Dept., *U.S. unemployment rate by industry and class of worker December 2021*, Jan. 11, 2022, available at <https://www.statista.com/statistics/217787/unemployment-rate-in-the-united-states-by-industry-and-class-of-worker/> (data is not seasonally adjusted).

<sup>6</sup> Asha Prihar, *Wisconsin's Economy Rife With Racial Inequity, Study Finds*, Milw. J. Sentinel (June 20, 2020), (citing to a study of wealth and employment gaps between Black and white residents) available at <https://www.jsonline.com/story/news/2020/06/20/wisconsin-economy-ranks-worst-racial-inequity-study-says/3222916001/>.

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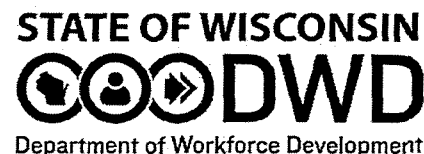
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Tony Evers, Governor  
Amy Pechacek, Secretary-designee

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**Date:** Wednesday, February 9, 2022

**To:** Chair Petryk, Vice-Chair Dittrich, and Members of the Assembly Committee on Workforce Development

**From:** Department of Workforce Development Secretary-designee Amy Pechacek

**Informational Memo Regarding AB 937, AB 938, and AB 939**

Chair Petryk, Vice-Chair Dittrich, and Committee Members, thank you for the opportunity to provide information regarding AB 937, AB 938, and AB 939, three bills under your consideration that propose significant changes to unemployment insurance (UI) law and Wisconsin's UI program. It is my understanding that from questions brought up at yesterday's hearing, clarifying information from the Department of Workforce Development about the impact of the bills would be helpful in advance of tomorrow's executive session.

With more than 130 years of experience analyzing labor market data for employers, policymakers, educational institutions, and job seekers, the Wisconsin Department of Workforce Development is focused on creating and sustaining a thriving economy. Through the leadership of Governor Evers, resilience of state employers, and dedication of Wisconsin's workforce, the state has bounced back from the economic downturn caused by the COVID-19 pandemic and is now stronger than ever. Given our state's current economic conditions and the lessons learned during the pandemic, the Department does not believe the bills before you today would strengthen the workforce, nor create lasting benefits for employers, job seekers, or current employees.

The preliminary December 2021 jobs report showed a record-low unemployment rate of 2.8% and the number of people counted as unemployed dropped to 86,200—the lowest number of unemployed Wisconsinites in state history. Meanwhile, the 66.4 percent labor force participation rate, which is a measure of the population actively working or seeking work, remains 4.5 percentage points above the national rate and is among the best in the nation.

Yet with this record-breaking recovery has come a labor market quantity challenge, driven by demographic trends that have been building for decades:

- An aging workforce and the volume of Baby Boomers retiring;
- Lower birth rates in the younger generations means there is not an equal workforce replacement rate; and
- Net zero immigration and migration into Wisconsin.

It is important to note that Wisconsin is not alone in facing the worker quantity challenge. It affects the U.S. as a whole and many other industrialized nations. The challenge is particularly acute here in the Midwest, which consistently posts the highest regional labor force participation rate in the nation.

Wisconsin's efforts to effectively address the labor quantity challenge build on DWD's historic success and partnerships with new "talent traction" strategies to remove barriers to employment and bring existing underutilized talent pools fully into the workforce. Key among these efforts is Governor Evers' \$130 million

commitment to invest in solutions to address the workforce challenges we face as a state. These investments build on regional partnerships across the state and include an innovative combination of providing job training, equipment, educational opportunities, affordable childcare for working parents, and mentoring to produce tailored and strategic workforce development solutions.

At the same time, DWD is undertaking comprehensive modernization efforts to improve external customer service access, unemployment insurance infrastructure, fraud prevention, and accounting controls and tools that match job seekers with employers. Challenges highlighted during the pandemic and recovery, which AB 937, AB 938, and AB 939 propose to address, are being remedied through DWD's modernization efforts, including a responsive call center, better usability for job seeker and employer reporting, and verification for UI claims processing. These unprecedented modernization efforts, combined with the administration's workforce development strategies, are producing results that include greater equity and economic opportunity for the people of Wisconsin.

AB 937, AB 938, and AB 939 do not account for the data-driven economic realities of Wisconsin's labor market and the trends that have been decades in the making, including regional economic differences. Further, the bills would add costly and confusing reporting burdens for employers.

Finally, the bills, which include unnecessarily punitive measures would reverse recent progress in bringing harder-to-employ populations into the labor force while not addressing the barriers to employment that disproportionately affect veterans, people of color, individuals who were justice-involved, and individuals with disabilities. AB 937, AB 938, and AB 939 undermine partnerships that have been developed over multiple administrations, diminish efforts to train and connect workers with employers, and impose burdens on business and government that would set back customer-service-driven modernization efforts.

#### **AB 937**

This bill would change the maximum number of weeks that a regular UI claimant who lost their job through no fault of their own could receive benefits. The bill creates a formula for determining the number weeks a claimant may be eligible for UI benefits depending on the seasonally adjusted statewide average unemployment rate of the first or third calendar quarter preceding the start of the claimant's benefit year depending on when they file their initial claim. This means that for claimants who start their benefit year on or after January 1, the number of weeks that they would be eligible for UI benefits would be determined on the average unemployment rate of July, August, and September of the previous year. Claimants who start their benefit year on or after July 1 would be eligible for the number of weeks as determined by the average unemployment rate of January, February, and March of that year.

This method of calculating maximum UI benefit duration is concerning in that the unemployment rate is volatile and can rise very quickly. During a recession it can easily increase multiple percentage points month to month. The bill mechanisms will not be responsive to, or reflective of, current economic situations as it looks back to a previous economic situation to determine benefits.

For example, in March 2020, the unemployment rate was 3.2 percent and the April 2020 unemployment rate was 14.8 percent. Had the bill been in effect at the start of the COVID-19 pandemic, individuals filing for UI in April 2020 would have had their maximum number of benefit weeks calculated based on the average unemployment rate for third quarter 2019 (3.1 percent). Under this hypothetical scenario, individuals that lost their job through no fault of their own in April 2020 would have been eligible for only 14 weeks of UI benefits. In July 2020 (14 weeks from April 2020), the unemployment rate was still at 7 percent. Although many workers had been able to return to work within that time, the public health risks facing certain industries did not allow them to recover as quickly, meaning their workers with certain skills and experience remained out of work through no fault of their own. As evident by our state's labor force participation rate, Wisconsinites are hard workers. However, the unemployment rate did not recover to pre-pandemic levels until October 2021. Fourteen weeks of UI would not have been long enough for individuals to weather the economic recovery and the recovery of jobs.

In addition, AB 937 is not sensitive to local employment rates. A brief look at county-by-county unemployment rates shows that unemployment is higher in the northern part of the state and lower in and around Dane County. The bill could disadvantage individuals in rural areas with fewer local job opportunities by reducing the number of benefit weeks to claimants with eligible employment. The bill is also not sensitive to unemployment rates by industry sector. Re-entering the job market may be easier in some sectors (and in certain times of the year) than others. Because the benefit durations for partial claims are determined the same as regular claims, the impact on claimants filing for partial claims would be the same.

DWD estimates that over one third of claimants would be affected by the proposed change. For example, for benefit years beginning in 2018 (covering payments in 2018 and 2019), 35 percent of claimants (36,513) would have been affected, experiencing an UI benefit decrease of \$84.4 million. And, for benefit years beginning in 2019 (covering payments made in 2019 and 2020), 38 percent of claimants would have been affected (43,610), experiencing an UI benefit decrease of \$102.3 million. In addition, the proposed changes would have sizable and negative impact on short and medium run economic activity in Wisconsin. It is estimated that for each dollar paid in UI benefits there is a \$1.70 increase in economic activity. So, using the example of 2018 and 2019 benefit years, this would relate to a reduction of \$143.48 million and \$173.74 million in economic activity in Wisconsin respectively. Given carryover pandemic claims, it is difficult to estimate who in the current claiming population would be impacted.

### **AB 938**

The bill proposes that UI benefit augmentations, such as the federal programs that provided critical supports for Wisconsinites during the pandemic, will require review by the Joint Committee on Finance (JFC). If federal programs and extended benefits are needed at future date, this proposed change could delay benefits to Wisconsin citizens, negatively affecting Wisconsin's economy by withholding funding that could be used by claimants for good and services.

Additionally, depending on how the federal programs are structured, there is the potential for the state of Wisconsin to lose benefits and administrative funding should participation in those federal programs be delayed, like Wisconsin experienced early in the pandemic when legislative delay on the waiting week waiver cost Wisconsin hundreds of millions of dollars in federal reimbursement of those funds. If such a review had been required when DWD was implementing the Federal Pandemic Unemployment Compensation (FPUC) program, just a two-week delay for JFC review of the administration of FPUC funding would have resulted in \$362 million of lost funds.

The other proposed changes in AB 938 are, in many ways, already current DWD practices or would have little of the intended effect on the UI program, such as:

- Regarding the proposal that all out-of-state claimants register with a job center, this is UI's current practice. UI already requires out-of-state claimants to register with a job center.
- The changes to the misconduct and absenteeism under UI law would only result in a minor reduction in UI operation costs (for claims adjudication). In addition, the change would not have much effect in finding individuals ineligible for UI as the change in policy would not add reasons for ineligibility, it would simply shift claim denials from "substantial fault" to "misconduct."
- Identity Proofing - UI already performs substantial identity verification. If the identity proofing measures require uploading of identifying documents, this would be a barrier to users, and additional staff time could be needed to help claimants with additional technological requirements. An initial estimate is that the proposed identity proofing standards would require a significant cost investment in annual vendor costs and technology development costs. Current UI processes use targeted identification logic. If extended to every claimant, vendor costs would be increased significantly.
- Work Search Audits - UI currently uses a targeted approach to work search audits. UI has balanced the efficacy of assuring work searches are audited with the available staff time.
  - In addition, work search audits are labor intensive. Every additional audit of two claimant work searches requires 45 minutes of staff time. The proposed requirement would require a substantial investment. Also, additional denials of claims will result in additional appeals.
  - The bill does not allocate any funding to cover the likely significant costs to increasing staff to conduct such extensive auditing, as well as the cost of appeals.

- Regarding the training requirements proposed in AB 938, UI already has external training and training videos in place.
- This provision regarding claimant data matching with death, incarceration, and other databases is unnecessary as UI already matches to three of the four databases mentioned in the bill, with the fourth in the process of being implemented. While UI would not have barriers to complying with the proposed language now, codifying the names of the databases creates a future problem as database types and technology changes.
- Regarding the bill's proposed Legislative Audit Bureau's (LAB) audit of DWD's UI fraud detection and prevention efforts, LAB has conducted extensive audits of all of DWD's UI functions, including fraud detection and prevention efforts. It is unnecessary to legislate the need for an audit. Audits can be accomplished within existing authorities. For example, see LAB Reports 21-11 and 21-9.
- Transfer of staff to DWD to assist UI Operations - Staff transfers can be accomplished, and have been accomplished, within existing authorities. In addition, such mandatory transfers of staff can have a negative impact on the operations of other critical programs. During the height of the COVID-19 pandemic, the administration was able to work with the current flexibilities to strategically transfer staff to assist UI operations while ensuring other critical functions remained online.

Lastly, the bill proposes expanding UI call center operations during a declared state of emergency. As demonstrated throughout the course of the COVID-19 pandemic when DWD did expand the hours of the call center, this is a function the Department has done and is able to do at any time based on the need of the people of Wisconsin. However, DWD was limited by the antiquated IT system that required the mainframe to be unavailable during certain times of day. That is why the Evers Administration's efforts to modernize our UI system continue to be a key solution in ensuring folks are able to get connected and receive support in a timely fashion. Examples of how the antiquated system affected the call center hours are available below:

- UI uses a COBOL Mainframe to process UI claims. The Mainframe is unavailable during certain periods to allow for batch processing and maintenance.
- The required overnight "batch" processing must occur for UI payments to be made.
- Batch processing is required to calculate, process and record payment amounts for claims and generate files for bank processing so that the payments can be deposited into to claimants' bank accounts or issued to debit cards.
- When the batch process is running each night, the online mainframe application is not available for making adjustments/corrections to the claims.
- Currently the Mainframe is available for staff to use during the hours of 6:00AM and 6:00PM, Monday through Friday, and from 6:00AM to 3:00PM on Saturday.
- Staff do not process claims on Sundays as that day is reserved mainly for weekly claim taking and preparing files for processing for payment.
- Weekend and evening hours would require staff costs of 40-45 people plus overtime costs. IT changes would be needed for the batch cycle and maintenance windows, and staffing would need to be added for IT and other areas that support the call center for weekend hours.

In addition, the proposed requirement to maintain a call center as well as have extended call center hours during a statewide emergency and/or a 300 percent increase in calls compared to the prior year does not take into consideration increasing use of other technologies to apply for UI and receive help on a claim, such as an improved online filing process and DWD's newly implemented artificially intelligent (AI) chat bot. DWD has made tremendous strides over the past year with the modernization of its call center, including contracting with Nice CXone, a cloud-based Customer Contact Center, to provide call center services. By partnering with this vendor, DWD has been working to implement a call center that offers a way to efficiently track and manage customer contacts while adding additional channels for communication.

To date, DWD has transitioned one third of the UI call center phone numbers to this new solution, which provides increased mechanisms for communicating with claimants and provides an opportunity for the integration of an AI chatbot. The CXone platform provides a sound, proven platform that is engineered to meet DWD's capacity needs as DWD's weekly call volume can be as low as 12,000 calls per week to over 6 million calls per week (experienced at the start of the pandemic). The new call center platform monitors

capacity regularly and has an architecture that allows for a capacity increase to meet DWD's needs at all hours and without having to expand traditional "call center" hours.

### **AB 939**

There are already requirements in place to address to the possibility that job seekers are committing the types of UI fraud that AB 939 proposes to combat. Further, some proposed reporting requirements may not be permissible under federal law. Pursuant to Wis. Stats. s. 108.04(2), UI claimants must be able and available for work, register for work (registration is through the Job Center of Wisconsin), and conduct at least four allowable work search actions per week, among other criteria. All individuals receiving UI must file weekly claims certifications that require claimants to answer several questions, such as whether they are able and available for work, whether they have refused any job offers or referrals to a job, and whether they are actively looking for work. Claimants are responsible for any inaccurate or incomplete information that they provide. Failure to correctly report all work, earnings, or other eligibility requirements could result in overpayments and penalties.

In addition, the required four work search actions each week must be valid, and any required documentation must be provided. Weekly claims certifications that raise any eligibility issues, such as able and available issues, are investigated by DWD's claim specialists. UI laws and policies, including those listed above, are in place to help address the concerns that are the basis of the bill.

Regarding the bill's proposed increase to employer reporting requirements, employers are currently able to report suspected claimant fraud, including fraud related to work search activities such as attending interviews, turning down job offers, and failing to return to employment or turning down employment offers. DWD already relies on employers to verify information provided by claimants and to bring other eligibility issues to our attention. They may call or write to DWD at any time to raise an eligibility issue, using Employer Assistance Line and the online Help Center. Any employer that suspects that someone on UI is committing fraud can also report it on DWD's website. DWD investigates all reports and fraud referrals.

Regarding the job refusal reporting requirement proposed in the bill, employers may already report a job refusal (such as a quit due to "no show") to DWD. When an eligibility issue is raised, a fact-finding investigation is conducted, and the claimant is always given an opportunity to give a statement about the issue. After DWD receives all the information about the job refusal, and if the individual is receiving UI benefits, DWD would adjudicate the issue and determine whether benefits should be denied. A claimant's failure to correctly report work, which includes a new job or job quit, may result in penalties. The claimant could appeal that determination.

The bill's proposed reporting requirements will create unnecessary administrative burdens on employers in Wisconsin. As it is likely that reporting employers would not have the personal identifying information for job applicants that do not attend interviews to effectively allow DWD to match UI records accurately. It is unclear in the bill to what extent employers will submit information on individuals' interest in job opportunities. Employers would not know the job applicant's UI status in some situations covered under the proposed language and reporting individuals' lack of interest in an opportunity may not be an employer's priority for their administrative staff time. In addition, there are confidentiality requirements in both state and federal law which restrict information about "actions taken" and their effect on claimants' eligibility. The proposed language in AB 939 requiring information being reported related to actions may not be permissible under federal law.

Thank you for the opportunity to provide this information.



## MEMO

TO: Assembly Committee on Workforce Development

FROM: Chris Reader, Executive Vice President of IRG Action Fund

DATE: February 8, 2022

RE: Support for AB 937, AB 938, AB 939 related to improving the UI System

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Chairman Petryk and members of the Committee,

Thank you for holding this hearing today on these Unemployment Insurance (UI) reform proposals. My name is Chris Reader, and I'm the Executive Vice President for IRG Action Fund. IRG Action Fund is the advocacy and lobbying partner to the Institute for Reforming Government, a Wisconsin based think tank.

I come before you today to speak in favor of Assembly Bills 937, 938, and 939. These bills collectively will help fix a broken Unemployment Insurance system. While many of the issues addressed in these bills have been around for years in Wisconsin, the COVID-19 pandemic has put a bright spotlight on the UI system and the pressing need to fix what is broken.

Unemployment Insurance is vital for those who face tough times. The program offers a lifeline as the claimants seek new employment after the emotional, often unexpected, loss of a job. But to be around to help those who need it most, you as policymakers must be ever mindful of ways to adjust the system, protecting its integrity and ensuring funds are available for those who are out of work due to no fault of their own. By protecting the integrity of the UI fund and ensuring funds are rightfully delivered, these bills will also help ensure the state maintains a healthy UI Fund balance, which is necessary to keep Wisconsin employers in the lowest possible UI tax bracket. For those reasons, we support these bills and applaud the authors for bringing them forward.

Assembly Bill (AB) 937 creates a sliding scale for UI benefits. The current UI system doesn't account for changing market dynamics as it should. The available number of jobs is not static, and connected services like UI benefits should also not be static. Today there is a set number of weekly benefits available to claimants, 26, regardless of the current job marketplace. AB 937 brings real world conditions into the UI system, helping ensure that funds continue to be available for those that need them most. It is common sense that the amount of benefits available should adapt to the current market needs. In times of high unemployment, when jobs are scarce, additional weeks of benefits may be needed for individuals seeking their next job opportunity.

But when jobs are plentiful, as they are now with an unemployment rate under 3% and over 130,000 jobs available on the Jobs Center of Wisconsin website, it makes sense to lower the number of weeks of

UI benefits available. The goal is not to force people off of benefits, but rather it is a recognition that there are jobs available right now for those claimants to go after. In the bill, the minimum amount of benefits is 14 weeks. 14 weeks to find a job in what is often described as a worker's marketplace, where employers are desperate for workers and "help wanted" signs, many offering hiring bonuses, are literally in store fronts all over the state. Workers are quitting their jobs left and right today in what has been named "the great resignation" because jobs are plentiful, and job seekers are able to command higher pay and better benefits in today's marketplace. UI should recognize this reality.

Assembly Bill 938 is an omnibus bill that touches on a number of items within the UI system in order to ensure funds are there for those that need them most, as well as make sure the system is working properly for those in desperate need of help. We witnessed way too many cases during the first wave of COVID-19 of individuals not being able to obtain help submitting claims, leaving our fellow Wisconsinites without benefits when they needed it most. To that end, AB 938 requires DWD to operate a call center during times of high demand like what we had from the initial claims stemming from COVID-19 shutdowns, while also allowing the state to transfer employees from other agencies to help with the call center volume.

The bill also protects the integrity of UI by upgrading the definition of misconduct, requiring the Department of Workforce Development to audit at least 50% of work search actions, requiring an upgrade in identity matching for new claimants, and requiring DWD to provide updated training materials, including videos, for employers and claimant. It also directs DWD to compare claimants to databases that track death, employment, and prison records to search for fraud or erroneous payments, gives authority to approve future federal enhanced benefits to the Joint Committee on Finance, and requires the Legislative Audit Bureau to conduct an audit of DWD's efforts to detect and prevent fraud as well as recover fraud related overpayments. These are all common sense ideas to make sure funds are available for those that need them when they lose their job at no fault of their own.

Finally, but certainly not least, before you today is Assembly Bill 939, legislation that cracks down on "ghosting" while still receiving UI benefits. This bill addresses a growing concern that we hear about from employers all over the state, regardless of industry or size. It certainly existed prior to the COVID-19 pandemic, but, like so many other related items, "ghosting" had a bright spotlight put on it during the pandemic. "Ghosting" in this context is when an individual doesn't show up for an interview or new job offer, yet still counts that scheduled interview or job offer as a job search to maintain benefit eligibility.

Here is what we heard from one employer, AriensCo. from Brillion, on this issue and their experience with "ghosting" by job candidates (letter attached):

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In a highly competitive talent landscape with attractive unemployment benefits, AriensCo has been impacted by candidates "ghosting" our career opportunities. This consistently occurs for candidates for both professional and production positions.

On the production side within the past year, we have had 53 candidates in 2021 not show up for work on their first day and requiring us to rescind their offers of employment. Additionally, 140 candidates did not show up for interviews in 2021, and there were 401 candidates that applied for positions with AriensCo in 2021 that we could not contact/did not respond to us after applying.



**Statement Before the  
Assembly Committee on Workforce Development**

**By**

**Bill G. Smith  
State Director  
National Federation of Independent Business  
Wisconsin**

**Tuesday, February 8, 2022**

**Assembly Bills 937, 938, 939**

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Chair Petryk, Vice Chair Dittrich, and members of the Committee, my name is Bill G. Smith, State Director for the National Federation of Independent Business (NFIB), and I appear today on behalf of nearly 10,000 Wisconsin member firms. Many of these small businesses continue to struggle with a full menu of economic challenges:

- Labor issues
- Supply shortages
- Inflation
- COVID regulations

Since 1974, NFIB's Research Foundation has collected Small Business Economic Trends data with a quarterly survey of our members, and since 1986, these quarterly snapshots of the small business economy have been done on a monthly basis.

The January jobs report was recently released, and I would like to share a few highlights with the Committee. According to the small business monthly Jobs Report by NFIB's Research Center, a historic number of small businesses are struggling to increase their workforce. A net 50 percent (seasonally adjusted) reported raising compensation, up two points from December and a 48 year record high reading.

NFIB's Chief Economist said, "Historically large numbers of small businesses are struggling to increase their workforce ... the staffing shortage continues to hold back the small business economy as owners try to retain their current employees and attract applicants for open positions, still at record high levels."

**National Federation of Independent Business in Wisconsin  
10 East Doty Street, Suite 519 – Madison, WI 53703 - 608/255-6083 – [www.nfib.com/wi](http://www.nfib.com/wi)**



**Statement Before the Assembly Committee on Workforce Development  
Tuesday, February 8, 2022**

A few more statistics from the Report:

- 23 percent said labor quality was their top business problem
- 11 percent cited labor costs as their top business problem
- 47 percent (seasonally adjusted) reported job openings they could not fill, and although down two points from December, the number of unfilled job openings still far exceeds the 48 year average of 23 percent.

Overall, Mr. Chair, 59 percent of small employers reported hiring or trying to hire in January – and 93 percent of those hiring or trying to hire reported few or no applicants for the positions they were trying to fill. 29 percent said there were few qualified applicants for their open positions, 26 percent reported none.

The bills before the Committee today for your consideration, would help provide unemployed individuals with incentives and encouragement to join or return to the workforce, while also responding to the current worker shortage crisis challenging our small business employers.

Assembly Bill 937 would create a linkage between unemployment and insurance benefits and current economic conditions.

Assembly 938 includes several key reforms that would protect the integrity of the UI Trust Fund, improve the efficiency of the administration of benefits, and help promote a UI system that is accountable and fairer to all who access the program.

Assembly Bill 939 preserves the intent of the UI system to provide temporary financial assistance while an individual seeks employment.

Mr. Chair, no one has greater responsibility or ability to lead the economic recovery than Wisconsin's small business owners.

The Legislature has a special obligation, we believe, to ensure that public policies help promote and encourage the creation and growth of small business, and also to sustain the small business community throughout our state.

I hope you found the economic data – specific to small business – that I shared with you to be helpful as you consider this legislation and public policies that impact our state's vital small business community.

Thank you.