



# **Senate Bills 906, 911, 914, and 932**

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## **Wisconsin Senate Committee on Economic and Workforce Development**

February 9, 2022

Chase Martin  
*Visiting Fellow*  
Opportunity Solutions Project

Chairman Feyen, vice-chair Testin, 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, nonpartisan 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 four Senate bills related to Wisconsin's unemployment program. SB 906, SB 911, SB 914, and SB 932.

This is a very important package of bills for Wisconsin for three key reasons that I'd like to highlight today. This group of bills will help unemployed people get back to work more quickly, protect the unemployment trust fund from fraud and waste for those that need it, and support Wisconsin businesses in filling positions and fending off future tax increases.

First, these bills will help Wisconsin's economy to bounce back the way it should by including several provisions which are designed to ensure the unemployment program is geared towards its true intent – to serve as a strong reemployment program. These provisions center around strengthening work search activities and verification and making sure that individuals are connected with the more than 200,000 open jobs that currently exist in Wisconsin.<sup>i</sup>

Second, these bills protect Wisconsin's Unemployment insurance trust fund, which 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>ii</sup> This slide may well continue, putting the trust fund at risk and forcing Wisconsin to borrow funds from the federal government or rob funding from other state priorities.

Finally, these bills support Wisconsin businesses which have had a rough couple of years. It does this first by helping them with their most important crisis – filling open positions. There is absolutely a hiring crisis right now, you have all seen it as you drive around your districts. A help wanted sign in every business window. With 209,000 open jobs across the state, these bills will connect workers with those jobs and get those businesses staffed back up. This is critical, because since 2000, Wisconsin's labor force participation has decreased by 11 percent, down from 73 percent to 66 percent.<sup>iii</sup> So, Wisconsin businesses need every worker they can get. The provisions in these bills would also protect those businesses from Unemployment tax increases that are inevitable if your Unemployment trust fund is stressed further.

There are many provisions in these four bills that help workers, protect the unemployment funds and support Wisconsin businesses, and I won't go into detail on each one for sake of time, but I'd like to highlight a few key provisions.

**SB 906** is a key bill in this group as it makes sure that Wisconsin's unemployment program responds to whatever the current economic conditions are. It makes the program dynamic and responsive to the needs of businesses and workers. It does this 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, half-a-year, of benefits. But when unemployment is very low, and jobs are plentiful, the maximum weeks drop down to correspond with the economic conditions.

Several states have adopted this approach with great success, helping to restore their trust funds, get people back to work, and even lowering taxes on businesses.

For example, Florida, Georgia and North Carolina adopted this approach, and employers in reform states pay approximately \$1.90 in UI taxes for every \$1,000 in payroll, but Wisconsin business pay \$4.40 for every \$1,000 in payroll.<sup>4</sup>

It's worth noting that these states capped benefits at 20 weeks when unemployment is higher, so SB 906 is already a compromise position, in that it maintains a full 26 weeks at the top end.

Next, **SB 911** is a very straightforward bill. It makes sure benefits are protected from fraud and people are getting back to work by requiring claimants to complete the required work search activities or be removed from benefits. Specifically, it requires the Department of Workforce Development (DWD) to investigate when someone turns down a job offer or there is other information indicating they are not eligible for the benefits. It also requires DWD to collect overpayments for fraud and other errors. Together these provisions will ensure that unemployment benefits are going to those who truly need them – those looking for employment opportunities.

In **SB 914**, that theme of reemployment continues very strongly. This is a great bill focused directly on DWD helping to get the unemployed quickly back into the workforce. It makes sure that DWD is truly a “reemployment” agency, not just a benefits agency. It does this by ensuring claimants are connected with open jobs, using their work search activities for things that directly lead to employment, and using reemployment counseling or job workshops when needed. Overall, it changes the tone and tenor of the program by re-naming it and re-focusing it on reemployment assistance versus solely unemployment benefits.

The final bill of the group I'd like to highlight is **SB 932**. This bill makes several key changes across the program, with the goal of protecting the program from fraud, waste, and abuse and making sure Wisconsin lawmakers have an oversight role in new funding. The bill does this by requiring more thorough audits of work search activities, with a random audit of half of reported work search activities. It also would require a commonsense, weekly data crosscheck of publicly-available databases – things like death records, jail records, and employment records. These are policies that have been recommended by the non-partisan U.S. Department of Labor's Inspector General. This has been a popular type of reform around the country, for both democrats and republicans, with nine states passing similar policy into law in the last year or so. Six of those bills passed unanimously, and three of those were signed by democrat governors.

Finally, SB 932 gives more oversight of unemployment funds to the state legislature. If the federal government decides they want to make changes in your Unemployment program, this bill would require that those changes, particularly increases to benefits or new benefits, come before the Joint Committee on Finance for review and approval.

Taken together these four bills represent an important step forward for workers and businesses in Wisconsin. They will help get people back to work more quickly, protect the state's unemployment trust fund, and support businesses in filling many thousands of open positions, while warding off tax increases. We support these bills and believe that Wisconsin lawmakers should as well.

Thank you for your time.

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

<sup>ii</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>iii</sup> Jonathan Bain, “The X factor: How skyrocketing medicaid enrollment is driving down the labor force,” Foundation for Government Accountability (2022), [theftga.org/paper/x-factor-medicaid-enrollment-driving-down-labor-force/](https://theftga.org/paper/x-factor-medicaid-enrollment-driving-down-labor-force/)

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



# WISCONSIN LEGISLATURE

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P.O. Box 7882 • Madison, WI 53707-7882

Date: February 9, 2022

To: Members of the Senate Committee on Economic Development and Workforce Development

From: Senator Roger Roth and Representative Warren Petryk

Re: Testimony regarding Senate Bill 914

Thank you Chairman Feyen and fellow members of the committee. We are here today regarding our reemployment assistance legislation.

As we travel throughout our districts and talk with business owners, restaurant workers, as well as local manufacturers, and farmers – one thing is clear, this worker shortage is real and alarming. There are 30% more jobs listed today on [jobcenterofwisconsin.com](http://jobcenterofwisconsin.com) than before the pandemic started. That is why we need to take this opportunity now to reform the unemployment insurance program to refocus it towards reemployment assistance and get people back to work as quickly as possible.

Senate Bill 914 makes a series of common-sense changes to the unemployment insurance program to get people the support that they need to transition back to the economy and get them into their next career earlier. For example, the need to get people back to work is not mentioned in the original statement that created the unemployment insurance program, despite Federal Law requiring that for someone to receive benefits they must be able to work, be available for work, and be actively seeking work (A provision signed into law by President Obama). This needs to change, and we need to change the name of the program from Unemployment Insurance to Reemployment Assistance to help people better understand the expectations of the program.

Secondly, we need to make work searches more meaningful for individuals. The US Department of Labor found having less-stringent employment searches creates a greater likelihood of someone not finding employment at all. To help people with their work searches, DWD would be required to make suitable job referrals to claimants each week based on the skills that they list on their resume. In addition, 2 of their 4 weekly work searches will need to be with employers.

Once they are beginning to look for work, DWD needs to support Reemployment Assistance claimants by providing them access to additional reemployment services. Wisconsin currently participates in limited Federal Reemployment Services and Eligibility Assessments (RESEA). These assessments need to include all individuals. By having universal RESEA, the department

will be able to access someone's likelihood of employability and match them with customized services.

This concept has worked in other states, such as Nebraska, where universal assessment started in 2015. They found that by helping people while they were claiming unemployment funds, the state was able to lower duration rates and increase the likelihood that someone kept a job after 2 years. We know this program has proven positive results, and there is no reason not to expand it to everyone.

We need to also increase the incentives for people to accept work while on reemployment assistance. Having an individual hold a part-time job vs. no job keeps them connected and engaged in the labor market, increasing their likelihood of finding their next career. This bill would allow people to keep a larger amount of their wages while claiming reemployment assistance. A similar proposal to the one we proposed was passed in Georgia during the pandemic with success. Georgia found that when they increased the incentive for people to find work, 77% of people found some type of employment.

Finally, we need to help those who are long-term unemployed. The US Department of Labor recently came out and said "The number of long-term unemployed (those jobless for 27 weeks or more) declined by 185,000 to 2.0 million in December. This measure is down from 4.0 million a year earlier but is 887,000 higher than in February 2020. The long-term unemployed accounted for 31.7% of the total unemployed in December."

We can also help these long-term unemployed by providing a hiring incentive for businesses. A business could receive up to \$2,000 for hiring someone from this category to help offset onboarding costs, training, or could use it as a hiring bonus. Additionally, under this bill, DWD would be required to provide additional counselling before someone ends their reemployment assistance and finishes their benefits.

Wisconsinites who lose their job through no fault of their own need a hand-up to help them transition to their next job opportunity. This bill transforms Wisconsin's outdated unemployment insurance program into an innovative, dynamic model of reemployment by helping connect people to the numerous jobs employers are urgently seeking to fill.

Thank you again for your time and consideration of our legislation.

# LEGAL ACTION OF WISCONSIN

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**TO:** Senate Committee on Economic and Workforce Development  
**FROM:** Abby Bar-Lev Wiley, Legislative Director, Legal Action of Wisconsin  
**RE:** Impact of SB 914/AB 883 on Legal Action's Clients  
**DATE:** February 9, 2022

Thank you for the opportunity to provide comments on SB 914/AB 883. 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 SB 914/AB 883 would impact our low-income clients.

### ***Barriers to Unemployment Insurance Harm the Economy***

The purpose of unemployment insurance benefits under Wisc. Chapter 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 businesses supported by those consumers, and the economy at large.

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>1</sup> Research "shows definitively" that "spending falls much further in those households afflicted by job loss when they do not receive UI benefits."<sup>2</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>3</sup> Creating barriers to

<sup>1</sup> *Id.* at 3.

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

#### **Administrative Office**

633 West Wisconsin Avenue  
Suite 2000  
Milwaukee, WI 53203

Office 855.947.2529  
Fax 414.662.4080

[www.legalaction.org](http://www.legalaction.org)

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obtaining unemployment insurance benefits for those in need puts more families further into financial crisis, takes money out of the economy, increases reliance on other public benefits, and makes it harder to find work. The unhoused, the hungry, and those in other financial crises often cannot pay for transportation, maintain access to cell phone and the internet, or provide employers with an address to be contacted at.

## ***Drug Testing***

SB 914 would require DWD to immediately implement drug testing as a requirement for unemployment insurance eligibility. By doing so, this bill makes it harder for our clients to access benefits that are often *the* reason they can keep the lights on, the heat running, the rent paid, and buy new socks or shoes or clothes for growing children as they search for family-sustaining employment. Additionally, this new requirement demonizes individuals struggling with drug addiction. Rather than creating new policies and programs to support individuals with addictions work to heal, a drug testing requirement takes essential life-giving economic support away. Limiting economic supports only furthers the vulnerability of these individuals to remain connected to drugs.

It is important DWD have the authority to determine how and when to implement policies under its purview. When implementing a new policy, it is critical that implementation is deliberate and careful to ensure that the policy is appropriately circumscribed, that as many claimants as possible are aware of the new requirements, that processes are in place to efficiently manage the influx of work on DWD's end, and that DWD is ready to communicate clearly and easily with claimants. Implementing a drug testing requirement is particularly complicated; it requires more of claimants and of DWD than filling out forms, applying for positions online, making certifications. It also requires people with low incomes who are already devoting every minute of their day to working or job searches in order to provide for their families, to make time to complete a drug test. Presumably, individuals would have to go to a location outside of their home to complete a drug test. This bill poses additional hurdles on both low-income individuals, as well as the DWD.

## ***Using ARPA Funds for Employer Grants***

Legal Action appreciates that SB 914 acknowledges the ongoing impact that the pandemic has on Wisconsinites by attempting to encourage employers to hire employees who were laid off during the pandemic. It is certainly true that for our low-income clients, the pandemic economy has changed their lives drastically, and for many of them, the pandemic is very much not over. People are still getting sick with COVID-19. They are experiencing job losses or cuts or missed days related to Covid for themselves or their families. As they search for work, our clients continue to expose themselves regardless of their individual risk level by attending job interviews, training programs, workshops. The jobs individuals are applying for typically are not jobs with flexibility that allows for remote work or paid time off.

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Suite 2000  
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Office 855.947.2529  
Fax 414.662.4080

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Certainly, encouraging employers to hire long-term unemployed individuals is well-intentioned. However, we are concerned about SB 914's approach to require the Governor to use ARPA funding for this purpose. Our low-income clients—just like everyone else—deserve safe, family-sustaining jobs. The bill does not specify whether employers must hire employees full-time or part-time to earn the \$2000 bonus. Under the bill, an employer could be incentivized to change a full-time position with benefits to two part-time positions without benefits, therefore receiving \$4,000 for two employees instead of one. The grant created by bill is ripe for exploitation without meaningful guarantees to job applicants.

## *General qualifying requirements*

Legal Action is deeply concerned that changes to unemployment insurance's general qualifying requirements would create delays in benefits for our clients, or would mean that otherwise eligible claimants are denied benefits because they were unable to complete or understand the new requirements. While our clients rely on unemployment insurance benefits as important family stabilizing supports, benefits are not easy to obtain. When someone loses employment through no fault of their own and begins 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. SB 914 would add time-sensitive requirements for continued unemployment eligibility, including requiring that, *“for the third and subsequent weeks of a claimant's benefit year, that at least two of the required weekly work search actions be direct contacts with potential employers,”* and *“when a claimant is claiming benefits with less than three weeks of benefits left, that the claimant complete a reemployment counseling session.”* These requirements would be extremely difficult for our low-income clients to meet; the implication is that if they are late on either of these requirements or are not able to secure direct contacts with employers, they would lose their benefits.

On top of the requirement that a claimant with fewer than three weeks of benefits remaining be required to complete a reemployment counseling session, the bill requires DWD to identify when a claimant is “likely to exhaust” their benefits, and requires those claimants to participate in a public employment office workshop or training program. Under this requirement, DWD is asked to speculate about each claimant's likelihood of exhausting benefits, a highly personalized and subjective analysis.

Taking time away from job searching in order to attend these programs and a counseling session when an individual is nearing the end of their unemployment benefits means the individual actually has less time available to devote to finding a job, making it more likely that they would exhaust their benefits without being reemployed.

The bill also requires DWD to use a claimant's “information, materials, and resume... to assess

## Administrative Office

633 West Wisconsin Avenue  
Suite 2000  
Milwaukee, WI 53203

Office 855.947.2529  
Fax 414.662.4080

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a claimant's efforts, skills, and ability to find or obtain work and to develop a list of potential opportunities for the claimant to obtain suitable work," requiring DWD to provide at least four such potential opportunities each week. While these aspirations are laudable, the heavy lift it would require of DWD is simply not realistic without a significant influx of resources to the department. The work proposed by the bill would be highly personalized for each claimant. In the week of January 23-29, 2022, there were 43,640 weekly unemployment insurance claims and 7,646 initial claims. Without a significant increase of resources to DWD, DWD would almost certainly have to draw agency employees away from other duties in order to satisfy SB 914's requirements. As a result, Legal Action is concerned there would be significant additional delays processing critical unemployment benefits and getting them to eligible claimants.

The effect of SB 914's changes on our clients would be to delay or prevent benefits. Overall, we are deeply concerned that the changes proposed in SB 914 would have long-lasting negative impacts on our clients while increasing administrative burdens that slow the process and create additional and unnecessary delays to receiving benefits.

Thank you for your consideration.

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#### Administrative Office

633 West Wisconsin Avenue      Office      855.947.2529      [www.legalaction.org](http://www.legalaction.org)  
Suite 2000      Fax      414.662.4080  
Milwaukee, WI 53203

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**THE LEADING VOICE  
FOR WISCONSIN SMALL  
AND INDEPENDENT BUSINESSES**

**February 9, 2022**

**TO: Members  
Senate Committee on Economic and Workforce Development**

**FR: Brian Dake  
President  
Wisconsin Independent Businesses**

**RE: 2021 Senate Bill (SB) 914 relating to: various changes to the unemployment insurance law, a grant program for hiring qualified long-term unemployment recipients, allocation of federal American Rescue Plan Act of 2021 funding for certain purposes, the state plan under the federal Workforce Innovation and Opportunity Act of 2014, federal Reemployment Services and Eligibility Assessment grants, employment outcome data reporting, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.**

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Chairman Feyen and committee members my name is Brian Dake, President of Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2021 Senate Bill (SB) 914.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent business owners with an effective voice in the legislative and regulatory activities of state government. Today, we proudly represent more than 2,000 small business owners throughout Wisconsin. Most of our members (approximately 85%) own and operate businesses that fit within the legal definition of a small business – fewer than 25 employees and/or annual gross revenues of less than \$5 million.

***WIB...Helping you where you need it.***

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | [www.wibiz.org](http://www.wibiz.org)

WIB supports SB 914 because we believe this omnibus legislation will:

- reduce the UI tax burden on small employers;
- transition UI claimants to gainful employment quickly;
- enhance accountability on the part of UI claimants; and
- help small employers fill open positions.

I provide to you further detail on each of these objectives.

Wisconsin employers are assessed state UI taxes on the first \$14,000 in wages paid to each employee. The state UI tax rate an employer pays is determined by two factors. They are:

- UI tax schedule in effect for a given rate year which is determined by the UI Trust Fund (Fund) balance. With your support, 2021 Wisconsin Act 59 shielded Wisconsin employers from higher state UI taxes attributable to the decline in the Fund balance in calendar years 2022 and 2023.
- Employer's experience with the UI system. The more current or former employees of an employer collect in UI benefits, the higher the tax rate that employers pay.

UI claimants who quickly transition to gainful employment have a limited impact on an employer's UI tax burden. Conversely, an employer's UI tax burden increases significantly when a UI claimant draws months of weekly UI benefits.

SB 914 includes several provisions which should result in more UI claimants transitioning to gainful employment quickly which in turn would lessen the UI tax burden on Wisconsin small businesses. Of note, the bill requires:

- for the third and subsequent weeks of a claimant's benefit year, that at least two of the required weekly work search actions be direct contacts with potential employers; and
- the Department of Workforce Development (DWD) to provide each claimant with at least four potential opportunities each week, one or more of which may be opportunities with a temporary help company.

Under current law, a UI claimant who completes the required weekly work search actions is not required to apply for any specific positions on the list of potential opportunities to satisfy the work search requirement. In other words, searching for work does not require the UI claimant to apply for a specific job opening.

SB 914 closes this “loophole” and instead requires UI claimants to apply for specific positions on the list of potential opportunities to satisfy the weekly work search requirement.

As you know, many Wisconsin small businesses are struggling to fill open positions. This problem began before the pandemic and is likely to continue well into the future. From our perspective, increasing the pool of “job ready” workers available for small employers to hire requires a multi-faceted approach and SB 914 offers some meaningful solutions.

According to DWD, the total number of people in Wisconsin who are counted as unemployed was 86,200 in December. The number of unemployed Wisconsin workers is probably higher given that the state’s labor participation rate in December was 66.4%.

Earlier today, there were 135,672 job openings posted on the Job Center of Wisconsin website. There are probably more job openings given that not every Wisconsin employer posts their openings on this website.

With a surplus of job openings as compared to the number of unemployed workers in Wisconsin, we believe DWD should devote more resources to helping unemployed workers find gainful employment. SB 914 facilitates this effort by requiring DWD to assess a claimant's efforts, skills, and ability to find or obtain work and to develop a list of potential opportunities for a claimant to obtain suitable work.

We respectfully ask for your support of SB 914.

Thank you in advance for your consideration.

Department of Workforce Development  
Secretary's Office  
201 E. Washington Avenue  
P.O. Box 7946  
Madison, WI 53707  
Telephone: (608) 266-3131  
Fax: (608) 266-1784  
Email: sec@dwd.wisconsin.gov



Tony Evers, Governor  
Amy Pechacek, Secretary-designee

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

**To:** Chair Feyen, Vice-Chair Testin, and Members of the Senate Committee on Economic and Workforce Development

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

**Written Testimony Regarding SB 906, SB 911, SB 914, and SB 932**

Chair Feyen, Vice-Chair Testin, and Committee Members, thank you for the opportunity to provide written testimony for information only on SB 906, SB 911, SB 914, and SB 932, which propose significant changes to Wisconsin's unemployment insurance (UI) law and UI program. 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 SB 906, SB 911, SB 914, and SB 932 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.

SB 906, SB 911, SB 914, and SB 932 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. SB 906, SB 911, SB 914, and SB 932 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.

### **SB 906**

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, SB 906 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.

### **SB 911**

There are already requirements in place to address to the possibility that job seekers are committing the types of UI fraud that SB 911 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 SB 911 requiring information being reported related to actions may not be permissible under federal law.

#### **SB 914**

DWD has significant concerns about this proposal due to the anticipated reporting burden for employers, potential costs, bureaucratic requirements, and lack of sustainable funding. While DWD already is performing a number of key functions noted in the proposal, other requirements in the bill appear to be based on an inaccurate read of Wisconsin's real labor market challenges.

DWD is already effectively serving job seekers, employers, and employees as DWD's primary responsibilities include providing job services, training, and employment assistance to people looking for jobs while working with employers to find the necessary workers to fill current job openings. DWD's six divisions, Employment and Training; Vocational Rehabilitation; Unemployment Insurance, Worker's Compensation, Equal Rights, and Administrative Services, coordinate closely to connect job seekers with employment opportunities; ensure that Wisconsin's diverse workforce is equipped with in-demand skills; and administer funds, including the \$1.1 billion Unemployment Insurance Trust Fund.

Wisconsin's proactive approach to workforce development already delivers results. Wisconsin's innovative responses and recent investments in workforce development are effectively connecting job seekers with employers and engaging previously underrepresented and underemployment populations with jobs. The Division of Employment and Training's Bureau of Job Service currently functions as a "Reemployment Division," working in the community, connecting online, supporting Department of Corrections job labs, providing services in hard-to-reach locations through the mobile career lab, and working in schools and libraries to help people get their next job. The [Job Center of Wisconsin website](#) currently hosts more than 46,000 resumes and functions to connect job seekers and employers.

Other ways DWD is already performing the functions proposed in the bill include:

- DWD works to prevent layoffs at Wisconsin companies. Through the Work-Share program, instead of laying off workers, a qualified employer can plan to reduce work hours for at least 20 employees, thus aiding the employer to retain its valued, skilled and/or trained employees.
- DWD's Job Service administers the Re-employment Services and Eligibility Assessment (RESEA) program. The program serves 20,000 to 25,000 UI claimants a year with an employment plan, job search assistance, work search review, employment counseling with Job Service licensed career counselors, referrals to training programs, career exploration.
- Work Registration is already a requirement. UI claimants are required to register for work (including the completion of a resume) with the Wisconsin Job Service online within 14 days of their initial application for UI benefits.
- Re-employment Services are also already a requirement. Again, claimants that are registered with Wisconsin Job Service are required to seek work, and complete an online orientation and assessment.
- DWD's Job Service is currently undertaking a comprehensive program evaluation of the RESEA program to identify the interventions that provide the best possible employment outcomes and reduce the duration of benefits. The evaluation will continue through 2024.

Creating new and burdensome reporting requirements for employers, erecting more barriers for job seekers, diminishing access to funds invested for people experiencing job loss, and creating more challenges for those suffering from substance abuse disorder as proposed in SB 914 would hinder the state's economic progress, not help. At the same time, establishing complex programs with unsustainable funding, creating additional bureaucratic mandates, shuffling existing division responsibilities, and changing the name of a DWD division as called for in the bill would only increase costs with no clear benefits.

#### **SB 932**

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 SB 932 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 SB 932, 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.

Thank you for the opportunity to provide this information.