



STATE SENATOR

Eric Wimberger

DISTRICT 2

**Senate Committee on Government Operations, Labor and
Economic Development**

**Re: Senate Bill 198- Various Changes to Unemployment
Insurance**

May 6, 2025

Thank you, Senator Feyen and committee members, for holding a hearing on Senate Bill 198, which updates Wisconsin's unemployment insurance laws to ensure benefits only go to claimants who did not perform misconduct at their previous place of employment, and who are actually looking for work.

Wisconsin's unemployment insurance program is designed to be temporary assistance for those who are unemployed through no fault of their own while they search for new employment.

Under current law, employees may be ineligible for benefits if they were fired for misconduct, which can include theft or destruction of property. This bill updates the definition of misconduct to include more forms of misconduct seen by employers today, such as the unauthorized use of a company credit card.

Additionally, current law mandates that claimants for UI benefits must conduct work searches at least four times a week, which are randomly audited by the Department of Workforce Development. This bill mandates that the Department of Workforce Development audit 50% of all work search actions done by claimants.

In April of 2023, nearly 80% of Wisconsin voters approved an advisory referendum supporting the work-search requirement for able-bodied, childless adults who receive UI. This commonsense legislation cleans up Wisconsin's UI program, and maintains the will of the people. Thank you again for holding this hearing and I hope you'll join us in support of Senate Bill 198.

State Capitol • PO Box 7882
Madison, WI 53707-7882
(608) 266-5670
Sen.Wimberger@legis.wi.gov

Written Testimony on SB 198
Amy Pechacek, Secretary Department of Workforce Development
May 6, 2025

Chair Feyen, Vice-Chair Kapenga, Ranking Member Spreitzer and Members of the Senate Committee on Government Operations, Labor, and Economic Development, thank you for the opportunity to provide written testimony for information only on SB 198. Thank you to Representative Tucker and Senator Wimberger for their interest in the Unemployment Insurance Program.

SB 198 proposes Unemployment Insurance (UI) Benefit augmentations, such as the federal programs that provided critical supports for Wisconsinites during the pandemic, that will require review by the Joint Finance Committee. If federal programs and extended benefits are needed at a future date, this proposed change could delay benefits to Wisconsin citizens in times of high need, negatively affecting Wisconsin's economy by withholding funding that could be used by claimants for goods and services.

Additionally, depending on how the federal programs are structured, there is the potential for the state of Wisconsin to lose federal benefits and administrative funding that other states will receive should participation in those federal programs be delayed.

The other proposed changes in SB 198 are either already DWD's current practice, or would not have the intended impact of bolstering Wisconsin's workforce, such as:

- The changes to the definition of "misconduct" in the bill would not create additional bases for ineligibility, it would instead shift the reason for claim denials from "substantial fault" to "misconduct." Redefining "misconduct" would thus not have an impact on the number of claims that are found to be ineligible.
- Additionally, removing "intent" from the definition of misconduct could jeopardize the Department's ability to comply with the federal conformity requirements to receive federal funding.
- Changes in the definition of "absenteeism": the proposed changes are already DWD's current practice based upon the *Bevco Precision Manufacturing v. Labor and Industry Review Commission* (2024 WI App. 54) decision.
- Registering out-of-state claimants at their local job center: this is UI's current practice. UI already requires out-of-state claimants to register with their closest public employment office and submit proof of said registration to DWD.
- Work search audits: The UI division has a well-established work search auditing program. UI claimants who are required to search for work must submit their work search record each week a claim is filed. These records are subject to random or targeted audits for program integrity purposes. These audits can uncover mistakes made by claimants or instances of intentional fraud, as well as provide an opportunity to educate claimants on what constitutes a valid work search action and what information is needed by the division to verify work searches. In 2024, DWD completed 10,626 work search audits. The audits resulted in 4,545 adverse decisions with

benefits denied, including cases where claimants failed to conduct the required number of valid work search actions. An additional 24,079 claims were not paid because adverse determinations were issued for failure to answer the work search question or failure to provide required information on the weekly claim.

- In addition, work search audits are labor intensive. Every audit of two claimants' work searches requires 45 minutes of staff time. To optimize results, UI targets its audits to efficiently and effectively review certain work search activity.
- As claimants complete four work search actions per week, auditing 50% of actions would result in millions of audits per year. This would require a large increase in staffing and substantial investment, and the bill does not allocate any additional positions or funding. Also, an increase in denials of claims will result in additional appeals, which would also require more staff. This bill is financially untenable, operationally infeasible, and unnecessary as DWD is confident in the efficacy of its approach using both random and targeted audits identify falsified work search actions.

As always, thank you for the opportunity to provide testimony. Please reach out if there are any additional questions.

WMC

Wisconsin's Chamber

TO: Members, Senate Committee on Government Operations, Labor & Economic Development

FROM: Rachel Ver Velde, Associate Vice President of Government Relations

DATE: May 6, 2025

RE: Support for Senate Bills 196, 197, 198, 200 and 201; changes to the unemployment insurance law

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to testify in support of Senate Bills 196, 197, 198, 200 and 201. Thank you, Chairman Feyen, for holding this hearing and highlighting a key concern of employers throughout Wisconsin.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. That mission includes making sure Wisconsin's employers have a capable and willing workforce.

While the worker shortage has improved for Wisconsin employers recently, too many are still unable to fill key positions. According to WMC's most recent *Wisconsin Employer Survey* released in January 2025, 63% of employers indicate that they are struggling to hire workers. Employers tell us that it is particularly difficult to find workers with the right skills and training.

Employers are also concerned that many people have simply dropped out of the workforce and are no longer looking for work. Wisconsin's labor force participation rate is currently 65.2%, which is better than the national average. However, it is significantly lower than our state's peak of 74.5% in 1997. Further, it is concerning that our current level is the same as the labor participation rate at the height of the pandemic in April 2020.

This labor participation rate is unsustainable for employers in Wisconsin, especially when coupled with low birth rates. If we want to continue to be a leader in manufacturing, agriculture and other industries, we must have a strong workforce. That is why it is important that government policies do not keep or place individuals on the sidelines.

Senate Bill 196/Assembly Bill 169:

WMC members continually have individuals miss interviews or fail to respond to interview requests. It is common for employers to have half or even less of their scheduled interviews actually show up. Unemployment insurance claimants are saying they are fulfilling their work search requirements in order to keep benefits, but they are not actually looking for a job. This legislation creates a needed

curb on this practice by saying if the claimant does this, they are not considered to have conducted a reasonable search for work in a week and therefore they lose their weekly benefit for that week.

Senate Bill 197/Assembly Bill 164:

WMC is glad to see this bill rightly change the focus of unemployment insurance to reemployment. It is important that individuals have access to career coaching and an individualized employment plan in order to set them up for future success. WMC is also supportive of requiring at least two of the required work search actions be direct contacts with potential employers starting with the third week and all subsequent weeks of a claimant's benefit year.

Senate Bill 198/Assembly Bill 167:

WMC members are very supportive of work search audits and additional oversight for enhanced federal benefits. The pandemic supplemental unemployment benefits provided a financial incentive for workers to remain on the sidelines, instead of filling desperately needed jobs. Employers were extremely disappointed that Governor Evers vetoed legislation to end the \$300 per week extra unemployment benefit. That would have provided meaningful relief to our economy. In August of 2021, we had an unemployment rate of 3.9%. When the \$300 per week benefit finally phased out in September, 36,435 fewer people collected unemployment benefits by December – a 30% drop in just four months. Those people didn't stay home once the extra benefits ended, they went back to work: Wisconsin added 34,854 workers during the same timeframe. Imagine how much more productive our economy could have been if we had stopped paying people not to work sooner.

Senate Bill 200/Assembly Bill 168:

The pandemic showed that flexibility in staffing at the Department of Development (DWD) is vitally important. WMC believes that this bill makes sensible changes to allow employees from other agencies to help alleviate unemployment insurance backlogs at DWD. WMC is also supportive of the requirement to double check a claimant's identity, including weekly crosschecks with prison, employment, immigration and death databases.

Senate Bill 201/Assembly Bill 162:

It is important to have a standard set of metrics for all of Wisconsin's workforce development programs. With multiple agencies overseeing a multitude of programs, it is important that the legislature, business community and public can evaluate the effectiveness of each program. This legislation's commonsense requirement to report this data in the same format utilizing the primary indicators of performance under the Workforce Innovation and Opportunity Act (WIOA) will allow equal evaluation of the quality of each program and will tell us which programs are the best to utilize in the future.

WMC urges members of the Senate Committee on Government Operations, Labor & Economic Development to vote in support of Senate Bills 196, 197, 198, 200 and 201. The reforms in these five bills are important for the health of Wisconsin's workforce and will allow employers to stay and expand in Wisconsin. These reforms will encourage people into the workforce and allow them to experience the dignity of work.



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

May 6, 2025

**TO: Members
Senate Committee on Government Operations, Labor & Economic Development**

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

RE: 2025 Senate Bill (SB) 196 relating to: various changes to the unemployment insurance law; 2025 Senate Bill (SB) 197 relation to: various changes to the unemployment insurance law and federal Reemployment Services and Eligibility Assessment grants; 2025 Senate Bill (SB) 198 relating to: various changes to the unemployment insurance law and requiring approval by the Joint Committee on Finance of certain federally authorized unemployment benefits; 2025 Senate Bill (SB) 200 relating to: various changes to the unemployment insurance law.

Chair Feyen and committee members, my name is Brian Dake, President of Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of the Senate Bill (SB) 196, Senate Bill (SB) 197, Senate Bill (SB) 198, and Senate Bill (SB) 200.

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. We proudly represent nearly 2,000 small, independent business owners throughout Wisconsin. Most of our members, approximately 85%, own and operate businesses that have fewer than 25 employees and annual gross revenues of less than \$5 million. Our membership reflects the range of small businesses that exist in communities throughout Wisconsin.

WIB...Helping you where you need it.

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | www.wibiz.org

In 2011, we surveyed our members about Wisconsin's Unemployment Insurance (UI) law. From their responses, we developed the following set of objectives to guide our advocacy efforts:

- reduce the state UI tax burden on small businesses;
- increase UI claimant accountability;
- reduce the incidence of UI fraud;
- bring clarity to the enforcement of UI laws and regulations; and
- transition UI claimants back to work quickly.

If enacted into law, these four bills would accomplish these important objectives.

2025 Senate Bill (SB) 196

"Ghosting" is a dubious practice in which a prospective employee does not show up for a scheduled job interview or respond to an offer of employment from an employer. While employers cannot legally compel a prospective employee to sit for a job interview or respond to a job offer, "ghosting" by a UI claimant could be a fraudulent act.

SB 196 sets forth a process whereby a Wisconsin employer may voluntarily report a potential instance of "ghosting" to the Wisconsin Department of Workforce Development (DWD) for further investigation. If the Department determines a UI claimant was engaged in "ghosting," he/she would be ineligible for UI benefits for the week in which the "ghosting" occurred.

2025 Senate Bill (SB) 197

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 state UI Trust Fund (Fund) balance. The higher the Fund balance, the lower the UI tax schedule.
- 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 employer pays.

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

SB 197 includes two provisions which should result in more UI claimants transitioning back to work quickly which in turn would lessen the UI tax burden on Wisconsin small businesses. Of note, SB 197 would:

- require for the third and subsequent weeks of a claimant's benefit year, at least two of the required weekly work search actions be direct contacts with potential employers; and
- require the DWD to provide each UI claimant with potential employment opportunities each week. To fulfill their weekly work search requirement, a UI claimant would be required to apply for the specific positions provided by the DWD.

2025 Senate Bill (SB) 198

To remain eligible for state UI benefits, claimants must conduct at least four weekly work search actions and report them to the DWD when filing their weekly UI claim.

State law also requires the DWD to conduct random work search audits and report annually to the Unemployment Insurance Advisory Council on the number and the results of work search audits conducted in the previous year. An analysis of this data for an eight-year period beginning in 2017 is very revealing.

Year	Audits Conducted	Decisions Where Work Search Requirements Were Not Met
2017	33,589	7,452
2018	32,772	6,392
2019	31,263	7,118
2020	766	208 (pandemic)
2021	1,261	962 (pandemic)
2022	22,012	9,045
2023	15,488	6,087
2024	10,626	4,545
Total	147,777	41,809

Over this eight-year period, 28% of all DWD work search audits conducted found that claimants failed to fulfill their weekly work search requirements. Over the three-year period beginning in 2022, 41% of all DWD work search audits conducted found that claimants failed to fulfill their weekly work search requirements.

SB 198 would require the DWD to conduct random audits for at least 50% of all work search actions reported to have been performed by claimants. The DWD work search audit data justifies the need for enhanced work search authentication to ensure UI claimants fulfill their weekly work search requirements.

A guiding principle of the UI program is that benefits are only paid to eligible workers who are unemployed through no fault of their own. Consistent with this principle, employees terminated due to workplace misconduct are ineligible for UI benefits.

With the support of WIB, Wisconsin lawmakers modernized the state's Employee Misconduct law more than a decade ago. 2013 Wisconsin Act 20 defined misconduct and enumerated that misconduct includes seven general actions by an employee for which the terminated employee would be ineligible for UI benefits for a specified period. They are:

- violation of an employer's drug and alcohol policy;
- theft of an employer's property or services;
- conviction of a crime, if the conviction makes it impossible for the employee to perform employment-related duties;
- acts of workplace harassment, assault, or physical violence;
- chronic absenteeism or excessive tardiness;
- falsifying the employer's business records, and;
- willful and deliberate violation of a written and uniformly applied standard for an employer that is licensed or certified by a governmental agency.

Over the last decade, various provisions of this law have been subject to legal challenge, business practices and operations have changed, and unforeseen instances of employee misconduct have arisen. For these reasons, we are pleased that AB 167 would update the Employee Misconduct statute. Of note, this legislation would:

- replace the existing misconduct standard for chronic absenteeism or excessive tardiness with a new standard that is consistent with the unanimous ruling by the Wisconsin Supreme Court in *Wisconsin Department of Workforce Development v. Wisconsin Labor and Industry Review Commission* (2018);

- enumerate unauthorized distribution of an employer's confidential or proprietary information, and use of an employer's credit card for an unauthorized or a nonbusiness purpose without prior approval from the employer as employee misconduct; and
- enumerate a violation of an employer's reasonable employment policy that covers the use of social media as employee misconduct.

2025 Senate Bill (SB) 200

Two recent reports from the United States Government Accountability Office (GAO) validate our advocacy efforts focused on reducing UI fraud.

In June 2022, the GAO issued a report to Congress entitled “Unemployment Insurance Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks” in which it advised federal lawmakers that the UI program has been added to its “High Risk” designation list. This extraordinary designation is conferred upon federal programs in need of transformation and/or vulnerable to waste, fraud, abuse, and mismanagement.

In December 2022, the GAO issued a report to Congress entitled “Unemployment Insurance Data Indicate Substantial Level of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy.” While the GAO chastised the DOL for not implementing an overall UI antifraud strategy, their report provided federal lawmakers with a list of actions taken by the DOL to assist states combat UI fraud. The report noted:

- The DOL provided funding to procure and implement an identity verification solution, which became available to states in July 2020. This service provides new datasets to conduct enhanced UI claimant identity verification by states to prevent fraudulent claims from being paid based on false identities. It also contains a cross match with the Social Security Administration (SSA) Death Master File to identify the use of a deceased person’s Social Security number being used to file for benefits.
- The DOL provided funding to procure and implement a bank account verification service, which became available to states in February 2022. This service aids states in proactively identifying and authenticating bank account information provided by a UI claimant by validating the account status and ensuring the claimant is the owner or authorized user prior to initiating the UI benefit payment.
- The DOL is working with the SSA to establish a secure data exchange that allows states to cross match UI claims data with incarceration records. While some states have access to various local, state, or federal incarceration cross matches, the DOL encouraged all states to regularly cross match UI claims against prisoner records to ensure UI benefits are only paid to eligible individuals.

This GAO report also footnoted an August 11, 2021, Unemployment Insurance Program Letter (UIPL) from the DOL in which the agency “strongly encouraged all states to implement NIST-compliant identity proofing, specifically IAL 2 and AAL 2, before claimants start filling out the UI claims application and for re-accessing their account.”

The DWD is currently in the process of modernizing its UI information system. With funding and resources available from the DOL, the time is now for the State of Wisconsin to adopt the UI fraud prevention recommendations from the GAO and the DOL.

Passage of SB 200 would ensure that happens.

Conclusion

We respectfully ask for your support of SB 196, SB 197, SB 198, and SB 200.

Thank you in advance for your consideration.