



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4768/1
MED&EAW:cjs

2021 BILL

1 **AN ACT** *to renumber and amend* 108.04 (2) (a) 4., 108.04 (15) (a) 2., 108.05 (3)
2 (a) and 108.13 (4) (a) 4.; ***to consolidate, renumber and amend*** 108.04 (15)
3 (a) (intro.) and 1.; ***to amend*** 20.445 (1) (aL), 20.445 (1) (gd), 20.445 (1) (nd),
4 40.02 (22) (b) 3., 40.65 (5) (b) 2., 49.147 (3) (ac) 2., 49.163 (3) (a) 3. c., 71.67 (7)
5 (title), 105.01 (1) (b) 1., 105.115 (2) (b), 105.115 (2) (c), 105.115 (3) (a) 1., 105.115
6 (4) (b) 1., 105.115 (4) (b) 3., 106.11, 106.13 (2), 106.38 (3) (c) 3., 108.04 (2) (a) 3.,
7 108.04 (12) (b), 108.133 (2) (a) (intro.), 108.133 (2) (am), 108.14 (1), 108.141 (1)
8 (b) 3., 108.142 (1) (h) 3., 108.19 (1m), 111.39 (4) (c), 230.43 (4), 230.85 (3) (d) and
9 779.01 (2) (am); ***to repeal and recreate*** chapter 108 (title); and ***to create***
10 15.223 (2), 106.113, 106.28, 108.01 (2m), 108.013, 108.02 (21r), 108.04 (2) (a) 4.
11 c., 108.04 (2) (a) 5., 108.04 (15) (a) 2. b., 108.04 (15) (am), (an) and (ao), 108.05
12 (3) (a) 3., 108.14 (8o) and 108.14 (3o) of the statutes; **relating to:** various
13 changes to the unemployment insurance law, a grant program for hiring
14 qualified long-term unemployment recipients, allocation of federal American

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1 Rescue Plan Act of 2021 funding for certain purposes, the state plan under the
2 federal Workforce Innovation and Opportunity Act of 2014, federal
3 Reemployment Services and Eligibility Assessment grants, employment
4 outcome data reporting, extending the time limit for emergency rule
5 procedures, providing an exemption from emergency rule procedures, and
6 granting rule-making authority.

Analysis by the Legislative Reference Bureau**UNEMPLOYMENT INSURANCE**

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

Program name change

The bill changes references in the statutes to “unemployment insurance” to “reemployment assistance” and requires the program and its benefits to be known as reemployment assistance. The bill also requires DWD to have a division known as the Division of Reemployment Assistance and requires the reemployment assistance law to be administered by that division.

General qualifying requirements

Under current law, a claimant for UI benefits is generally required to 1) register for work, 2) be able to work and available for work, and 3) conduct a work search for each week in order to remain eligible. A claimant is required to conduct at least four work search actions each week, and DWD may require, by rule, that an individual conduct more than four work search actions per week. Finally, if a claimant is claiming benefits for a week other than an initial week, the claimant must provide information or job application materials that are requested by DWD and participate in a public employment office workshop or training program or in similar reemployment services required by DWD.

This bill does the following:

1. 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.
2. Requires a claimant who resides in this state, for each week other than an initial week, to submit and keep posted on the DWD’s job center website a current resume.
3. Requires, when a claimant is claiming benefits with less than three weeks of benefits left, that the claimant complete a reemployment counseling session.

Additionally, current law allows DWD to use information or job application materials described above to assess a claimant’s efforts, skills, and ability to find or

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obtain work and to develop a list of potential opportunities for a claimant to obtain suitable work. However, current law provides that a claimant who otherwise satisfies the required weekly work search requirement is not required to apply for any specific positions on the list of potential opportunities in order to satisfy the work search requirement. The bill requires, instead of allows, DWD to provide this assistance. The bill also repeals the language in current law providing that a claimant who otherwise satisfies the weekly work search requirement is not required to apply for specific positions provided by DWD and requires 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.

Finally, current law allows DWD to require a claimant to participate in a public employment office workshop or training program. This bill provides that DWD must require a claimant to participate in a public employment office workshop or training program if the claimant is likely to exhaust regular UI benefits. DWD may also require other claimants to participate in a public employment office workshop or training program, but must prioritize claimants more likely to have difficulty obtaining reemployment.

Drug testing

Current state law requires DWD to establish a program that is consistent with federal law to test certain claimants who apply for UI benefits for the presence of controlled substances. A claimant who tests positive for a controlled substance for which the claimant does not have a prescription is ineligible for UI benefits until certain requalification criteria are satisfied or unless he or she enrolls in a substance abuse treatment program and undergoes a job skills assessment, and a claimant who declines to submit to a test is simply ineligible for benefits until he or she requalifies. Claimants who are required to undergo drug testing include individuals for whom suitable work is only available in occupations for which drug testing is regularly conducted in this state. However, current law provides that these provisions do not apply until DWD promulgates rules to implement the requirements and those rules take effect, including rules identifying occupations for which drug testing is regularly conducted in this state.

This bill requires DWD to immediately promulgate the required rules.

Reemployment Services and Eligibility Assessment grants

Under federal law, the United States Department of Labor (USDOL) operates the Reemployment Services and Eligibility Assessment (RESEA) program, whereby grants are awarded to states to provide reemployment services to claimants. Participation in the RESEA program is voluntary and requires that a state submit a state plan to USDOL that outlines how the state intends to conduct a program of reemployment services and eligibility assessments.

This bill requires that DWD act to continue to participate in the RESEA program and provide RESEA services to all UI claimants likely to exhaust regular UI benefits. The bill further requires DWD, until December 31, 2024, to provide certain RESEA services to all UI claimants and requires the governor to allocate moneys available under the federal American Rescue Plan Act of 2021 to provide these services.

BILL***Wage threshold for receipt of benefits***

Under current law, if a claimant for UI earns more than \$30 in a given week, the partial benefits formula reduces the claimant's weekly UI benefit payment by a certain percentage of the wages earned over \$30. Under current law, if a claimant receives wages totaling more than \$500 in a given week, the claimant is generally ineligible to receive any benefits. This bill changes the partial benefits formula so that the UI benefit payment is not reduced unless a claimant earns more than \$30 or 40 percent of the claimant's weekly benefit rate in a given week, whichever amount is greater. However, the bill does not affect the \$500 cap on wages for receipt of benefits.

OTHER CHANGES***Grant program for hiring long-term unemployment recipients***

The bill directs the governor to allocate sufficient moneys of the moneys received from the federal government under the American Rescue Plan Act of 2021 for costs associated with a grant program to provide payments to employers that hire qualified long-term unemployment benefit recipients who became unemployed due to the COVID-19 pandemic. Under the program, an employer may receive up to two payments of up to \$1,000 each for each qualified long-term unemployment recipient the employer hires as compensation for wages, training, benefits, and other employment costs incurred by the employer.

WIOA State Plan

Under the federal Workforce Innovation and Opportunity Act of 2014 (WIOA), federal funds are allocated to the state and, in turn, to local workforce development areas designated by the governor to provide employment and training activities for job seekers and workers. The WIOA repealed a prior law known as the federal Workforce Investment Act of 1998, which contained many similar provisions. To receive funding under the WIOA, the state must undertake a number of activities, including submitting a state plan to the federal government. A plan must outline a four-year strategy for the state's workforce development system. This bill requires the combined state plan submitted by the state to include programs authorized under state unemployment compensation laws, which is one of the 11 specific federal programs listed in the WIOA that states may include in their plans to assist in workforce development.

The bill also updates references to the United States Code regarding the WIOA.

Data reporting

The bill requires DWD, using quarterly wage data filed by employers with DWD, to semiannually compile data and prepare a report to provide information on and analysis of the employment outcomes of claimants after receiving UI benefits. Each claimant's wage data must be used for 12 quarters following the claimant's first of benefits.

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

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

1 **SECTION 1.** 15.223 (2) of the statutes is created to read:

2 15.223 (2) DIVISION OF REEMPLOYMENT ASSISTANCE. There is created in the
3 department of workforce development a division of reemployment assistance.

4 **SECTION 2.** 20.445 (1) (aL) of the statutes is amended to read:

5 20.445 (1) (aL) *Unemployment insurance* Reemployment assistance
6 *administration; controlled substances testing and substance abuse treatment.*

7 Biennially, the amounts in the schedule for conducting screenings of applicants,
8 testing applicants for controlled substances, the provision of substance abuse
9 treatment to applicants and claimants, and related expenses under s. 108.133.
10 Notwithstanding s. 20.001 (3) (b), the unencumbered balance on June 30 of each
11 odd-numbered year shall be transferred to the unemployment reemployment
12 assistance program integrity fund.

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

14 20.445 (1) (gd) *Unemployment* Reemployment assistance; interest and penalty
15 *payments.* All moneys received as interest and penalties collected under ss. 108.04
16 (11) (c) and (cm) and (13) (c) and 108.22 except interest and penalties deposited under
17 s. 108.19 (1q), and forfeitures under s. 103.05 (5), all moneys not appropriated under
18 par. (gg) and all moneys transferred to this appropriation account from the
19 appropriation account under par. (gh) for the payment of benefits specified in s.
20 108.07 (5) and 1987 Wisconsin Act 38, section 132 (1) (c), for the payment of interest
21 to employers under s. 108.17 (3m), for research relating to the condition of the

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

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

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

25 **SECTION 5.** 40.02 (22) (b) 3. of the statutes is amended to read:

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1 40.02 **(22)** (b) 3. Unemployment insurance or reemployment assistance
2 benefits.

3 **SECTION 6.** 40.65 (5) (b) 2. of the statutes is amended to read:

4 40.65 **(5)** (b) 2. Any unemployment insurance or reemployment assistance
5 benefit payable to the participant because of his or her work record.

6 **SECTION 7.** 49.147 (3) (ac) 2. of the statutes is amended to read:

7 49.147 **(3)** (ac) 2. State ~~and federal unemployment~~ reemployment assistance
8 contributions or federal unemployment taxes.

9 **SECTION 8.** 49.163 (3) (a) 3. c. of the statutes is amended to read:

10 49.163 **(3)** (a) 3. c. State reemployment assistance contributions and federal
11 unemployment insurance ~~contributions or taxes~~, if any.

12 **SECTION 9.** 71.67 (7) (title) of the statutes is amended to read:

13 71.67 **(7)** (title) ~~WITHHOLDING FROM UNEMPLOYMENT COMPENSATION INSURANCE~~
14 REEMPLOYMENT ASSISTANCE.

15 **SECTION 10.** 105.01 (1) (b) 1. of the statutes is amended to read:

16 105.01 **(1)** (b) 1. The person employing the individuals in addition to wages or
17 salaries pays federal social security taxes, state reemployment assistance
18 contributions, and federal unemployment ~~contributions or taxes~~, carries worker's
19 compensation insurance as required by state law, and maintains liability insurance
20 covering the acts of its employees while rendering services to, for or under the
21 direction of a 3rd person; and

22 **SECTION 11.** 105.115 (2) (b) of the statutes is amended to read:

23 105.115 **(2)** (b) A statement of the employment status of the home care worker,
24 specifically, whether the home care worker is an employee of the home care
25 placement agency or of the home care consumer or is an independent contractor and

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1 a statement identifying which party is responsible for paying the wages or salary of
2 the home care worker, paying federal social security taxes and state reemployment
3 assistance contributions and federal unemployment ~~contributions~~ or taxes with
4 respect to the home care worker, and procuring worker's compensation or liability
5 insurance covering injury to the home care worker.

6 **SECTION 12.** 105.115 (2) (c) of the statutes is amended to read:

7 105.115 (2) (c) A statement that, notwithstanding the employment status of the
8 home care worker specified in the notice, the home care consumer may be determined
9 to be the employer of the home care worker for purposes of certain state and federal
10 labor laws and that, if that is the case, the home care consumer may be held
11 responsible for paying the wages or salary of the home care worker, paying federal
12 social security taxes and state reemployment assistance contributions and federal
13 unemployment ~~contributions~~ or taxes with respect to the home care worker,
14 procuring worker's compensation or liability insurance covering injury to the home
15 care worker, and complying with various other state and federal labor laws.

16 **SECTION 13.** 105.115 (3) (a) 1. of the statutes is amended to read:

17 105.115 (3) (a) 1. A statement identifying which party is responsible for paying
18 the wages or salary of the home care worker, paying federal social security taxes and
19 state reemployment assistance contributions and federal unemployment
20 ~~contributions~~ or taxes with respect to the home care worker, and procuring worker's
21 compensation or liability insurance covering injury to the home care worker.

22 **SECTION 14.** 105.115 (4) (b) 1. of the statutes is amended to read:

23 105.115 (4) (b) 1. If the department finds that a home care placement agency
24 has failed to provide a home care consumer with the notice required under sub. (2)
25 and that the home care consumer is liable for the payment of federal social security

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1 taxes or state reemployment assistance contributions or federal unemployment
2 ~~contributions or~~ taxes with respect to the home care worker, for the provision of
3 worker's compensation or liability insurance covering injury to the home care
4 worker, for the payment of any fine or penalty imposed on the home care consumer
5 for noncompliance with any state or federal labor law with respect to the home care
6 worker, or for any injury to the home care worker, the department may recover from
7 the home care placement agency, on behalf of the home care consumer, an amount
8 equal to the total cost of those liabilities.

9 **SECTION 15.** 105.115 (4) (b) 3. of the statutes is amended to read:

10 105.115 (4) (b) 3. In the case of a home care consumer who commences an action
11 in circuit court under par. (a), if the circuit court finds that the home care placement
12 agency has failed to provide the home care consumer with the notice required under
13 sub. (2) and that the home care consumer is liable for the payment of federal social
14 security taxes or state reemployment assistance contributions or federal
15 unemployment ~~contributions or~~ taxes with respect to the home care worker, for the
16 provision of worker's compensation or liability insurance covering injury to the home
17 care worker, for the payment of any fine or penalty imposed on the home care
18 consumer for noncompliance with any state or federal labor law with respect to the
19 home care worker, or for any injury to the home care worker, the court may order the
20 home care placement agency to pay to the home care consumer an amount equal to
21 the total cost of those liabilities, together with costs under ch. 814 and,
22 notwithstanding s. 814.04 (1), reasonable attorney fees.

23 **SECTION 16.** 106.11 of the statutes is amended to read:

24 **106.11 Workforce investment programs.** The department shall cooperate
25 with the federal government in carrying out the purposes of the federal Workforce

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1 ~~Investment Act of 1998, 29 USC 2801 to 2945~~ Innovation and Opportunity Act of
2 2014, 29 USC 3101 to 3361. In administering the programs authorized by that act
3 the department shall, in cooperation with other state agencies, with the council on
4 workforce investment established under 29 USC 3111, and with local workforce
5 development boards established under 29 USC ~~2832~~ 3122, establish a statewide
6 workforce investment system to meet the employment, training, and educational
7 needs of persons in this state. If a local workforce development board anticipates
8 that there may be a business closing or mass layoff under s. 109.07 in the area served
9 by that board, the board may prepare a list of resources available in that area that
10 provide career planning, job search, job skills training, and other support services for
11 affected employees, as defined in s. 109.07 (1) (a), including contact information for
12 those resources, for distribution to those employees under s. 109.07 (1m) (a).

13 **SECTION 17.** 106.113 of the statutes is created to read:

14 **106.113 Workforce innovation plan.** The department shall submit a
15 combined state plan under 29 USC 3113 that includes the programs listed under 29
16 USC 3113 (a) (2) (G).

17 **SECTION 18.** 106.13 (2) of the statutes is amended to read:

18 106.13 (2) The council on workforce investment established under 29 USC
19 ~~2821~~ 3111, the technical college system board, and the department of public
20 instruction shall assist the department in providing the youth apprenticeship
21 program under sub. (1).

22 **SECTION 19.** 106.28 of the statutes is created to read:

23 **106.28 Grant program for employers who hire long-term unemployed.**

24 (1) In this section:

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1 (a) "Period of qualifying employment" means employment at 30 or more hours
2 per week for 8 weeks, each of which begins on or after September 5, 2021, and ends
3 on or before December 28, 2024.

4 (b) "Qualifying employee" means an employee who satisfies all of the following:

5 1. The individual was a qualified long-term unemployment recipient, as
6 defined in 26 USC 51 (d) (15).

7 2. The individual became unemployed due to the COVID-19 pandemic, as
8 determined by the department.

9 **(2)** The department shall develop and administer a grant program to provide
10 payments to employing units in this state for hiring qualifying employees, to
11 compensate those employing units for wages, training, benefits, and other
12 employment costs, subject to all of the following:

13 (a) 1. An employing unit shall be entitled to a first payment under this section
14 for one period of qualifying employment by the employing unit of a qualifying
15 employee.

16 2. An employing unit shall be entitled to a 2nd payment under this section for
17 2 nonoverlapping periods of qualifying employment by the employing unit of a
18 qualifying employee.

19 (b) In order to receive a payment under par. (a) 1. or 2., an employing unit shall
20 submit documentation of the employment of the employee, as required by the
21 department by rule.

22 (c) Each payment under par. (a) 1. or 2. shall be limited to \$1,000.

23 (d) An employing unit may receive no more than 2 payments under par. (a) per
24 qualifying employee.

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1 (e) There is no limit to the number of qualifying employees for which an
2 employing unit may receive payments under this subsection, except that no more
3 than one employing unit may receive payments for employing a given qualifying
4 employee.

5 (3) Of the moneys the governor accepts from the federal government under s.
6 16.54 pursuant to section 602 of the federal Social Security Act as amended by the
7 federal American Rescue Plan Act of 2021, P.L. 117-2, the governor shall allocate
8 sufficient moneys for costs associated with the grant program under this section.

9 (4) The department may use the procedure under s. 227.24 to promulgate rules
10 for the grant program under this section. Notwithstanding s. 227.24 (1) (a) and (3),
11 the department is not required to provide evidence that promulgating a rule under
12 this subsection as an emergency rule is necessary for the preservation of the public
13 peace, health, safety, or welfare and is not required to provide a finding of emergency
14 for a rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and
15 (2), rules under this subsection may remain in effect until December 31, 2024.

16 **SECTION 20.** 106.38 (3) (c) 3. of the statutes is amended to read:

17 106.38 (3) (c) 3. State reemployment assistance contributions and federal
18 unemployment insurance ~~contributions or taxes~~, if any.

19 **SECTION 21.** Chapter 108 (title) of the statutes is repealed and recreated to
20 read:

CHAPTER 108**REEMPLOYMENT ASSISTANCE**

23 **SECTION 22.** 108.01 (2m) of the statutes is created to read:

24 108.01 (2m) The Social Security Act requires that, in order for an individual
25 to be eligible for reemployment assistance benefits, the individual must be able to

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1 work, available to work, and actively seeking work. The reemployment assistance
2 program in Wisconsin should enact and focus on policies that complement
3 individuals' efforts to find employment.

4 **SECTION 23.** 108.013 of the statutes is created to read:

5 **108.013 Name of program.** The program established under this chapter and
6 administered by the department shall be referred to as the "Reemployment
7 Assistance Program," and the benefits available under this chapter shall be referred
8 to as "reemployment assistance benefits."

9 **SECTION 24.** 108.02 (21r) of the statutes is created to read:

10 108.02 (21r) REEMPLOYMENT ASSISTANCE. "Reemployment assistance," when
11 used in reference to the law of another state or jurisdiction or the federal government,
12 includes an unemployment insurance law of that state or jurisdiction or the federal
13 government.

14 **SECTION 25.** 108.04 (2) (a) 3. of the statutes is amended to read:

15 108.04 (2) (a) 3. The claimant conducts a reasonable search for suitable work
16 during that week and provides verification of that search to the department. The
17 search for suitable work must include at least 4 actions per week that constitute a
18 reasonable search as prescribed by rule of the department. The department shall
19 require, for the 3rd or subsequent week of the claimant's benefit year, that at least
20 2 actions per week be direct contacts with potential employing units, as prescribed
21 by rule of the department. In addition, the department may, by rule, require a
22 claimant to take more than 4 reasonable work search actions in any week. The
23 department shall require a uniform number of reasonable work search actions for
24 similar types of claimants. The department may require a claimant to apply for one
25 or more of the potential opportunities provided to the claimant under sub. (15) (a) 1.

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1 and may refer a claimant to opportunities with a temporary help company as part
2 of the required search for suitable work under this subdivision.

3 **SECTION 26.** 108.04 (2) (a) 4. of the statutes is renumbered 108.04 (2) (a) 4.
4 (intro.) and amended to read:

5 108.04 (2) (a) 4. (intro.) If the claimant is claiming benefits for a week other
6 than an initial week, the claimant ~~provides~~ does all of the following:

7 a. Provides information or job application materials that are requested by the
8 department and ~~participates.~~

9 b. Participates in a public employment office workshop or training program or
10 in similar reemployment services that are required by the department under sub.
11 (15) (a) 2.

12 **SECTION 27.** 108.04 (2) (a) 4. c. of the statutes is created to read:

13 108.04 (2) (a) 4. c. Submits and keeps posted on the department's job center
14 website a current resume, if the claimant resides in this state.

15 **SECTION 28.** 108.04 (2) (a) 5. of the statutes is created to read:

16 108.04 (2) (a) 5. The claimant completes any reemployment counseling session
17 required of the claimant under sub. (15) (ao) 1.

18 **SECTION 29.** 108.04 (12) (b) of the statutes is amended to read:

19 108.04 (12) (b) Any individual who receives, through the department, any other
20 type of unemployment or reemployment assistance benefit or allowance for a given
21 week is ineligible for benefits for that same week under this chapter, except as
22 specifically required for conformity with the federal trade act of 1974 (P.L. 93-618).

23 **SECTION 30.** 108.04 (15) (a) (intro.) and 1. of the statutes are consolidated,
24 renumbered 108.04 (15) (a) 1. and amended to read:

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1 108.04 (15) (a) 1. Except as provided in par. (b), the department ~~may do any of~~
2 the following shall, for the purpose of assisting claimants to find or obtain work: ~~1.~~
3 ~~Use, use the information or, materials, and resume~~ provided under sub. (2) (a) 4. to
4 assess a claimant's efforts, skills, and ability to find or obtain work and to develop
5 a list of potential opportunities for ~~a~~ the claimant to obtain suitable work. A
6 ~~claimant who otherwise satisfies the requirement under sub. (2) (a) 3. is not required~~
7 ~~to apply for any specific positions on the list in order to satisfy that requirement~~ The
8 department shall provide each claimant, prior to the claimant filing a weekly claim
9 for benefits, with at least 4 such potential opportunities each week, one or more of
10 which may be opportunities with a temporary help company.

11 **SECTION 31.** 108.04 (15) (a) 2. of the statutes is renumbered 108.04 (15) (a) 2.

12 a. and amended to read:

13 108.04 (15) (a) 2. a. ~~Require~~ Except as provided in par. (b), the department shall
14 require a claimant whom the department identifies as likely to exhaust regular
15 benefits to participate in a public employment office workshop or training program
16 or in similar reemployment services that do not charge the claimant a participation
17 fee and that offer instruction to improve the claimant's ability to obtain suitable
18 work.

19 **SECTION 32.** 108.04 (15) (a) 2. b. of the statutes is created to read:

20 108.04 (15) (a) 2. b. Except as provided in par. (b), in addition to the claimants
21 described in subd. 2. a., the department may require other claimants to participate
22 in the reemployment services described in subd. 2. a., but the department shall
23 prioritize claimants who are more likely to have difficulty obtaining reemployment.

24 **SECTION 33.** 108.04 (15) (am), (an) and (ao) of the statutes are created to read:

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1 108.04 (15) (am) In carrying out this state's program of reemployment services
2 and eligibility assessments using grant funds awarded under 42 USC 506, the
3 department shall, except as provided in par. (b), provide reemployment services to
4 all claimants identified by the department as likely to exhaust regular benefits,
5 including by requiring the claimant to complete an online assessment aimed at
6 identifying the claimant's skills, abilities, and career aptitude.

7 (an) 1. Notwithstanding par. (am), in carrying out this state's program of
8 reemployment services and eligibility assessments using grant funds awarded
9 under 42 USC 506, the department shall, except as provided in par. (b), provide
10 reemployment services to all claimants receiving benefits, including benefits under
11 ss. 108.141 and 108.142, including by doing all of the following for each such
12 claimant:

13 a. Requiring the claimant to complete an online assessment aimed at
14 identifying the claimant's skills, abilities, and career aptitude.

15 b. Coordinating with the claimant to develop an individualized employment
16 plan for the claimant.

17 c. Requiring the claimant to participate in the services described under par. (a)
18 2. a. as needed pursuant to the individualized employment plan described in subd.
19 1. b.

20 2. Of the moneys the governor accepts from the federal government under s.
21 16.54 pursuant to section 602 of the federal Social Security Act as amended by the
22 federal American Rescue Plan Act of 2021, P.L. 117-2, the governor shall allocate
23 sufficient moneys so that, when such moneys are combined with grant moneys
24 received and allocated under 42 USC 506, sufficient moneys are allocated to provide
25 the services required under subd. 1.

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1 3. This paragraph does not apply after December 31, 2024.

2 (ao) Except as provided in par. (b), the department shall, when a claimant's
3 remaining benefit entitlement under s. 108.06 (1) is 3 or less times the claimant's
4 weekly benefit rate under s. 108.05 (1), do all of the following:

5 1. Require the claimant to participate in a live, one-on-one reemployment
6 counseling session between the claimant and an employee of the department.

7 2. Provide the claimant information about services and benefits that are
8 available to the claimant pursuant to the federal Workforce Innovation and
9 Opportunity Act of 2014, 29 USC 3101 to 3361, once the claimant exhausts his or her
10 benefit entitlement.

11 **SECTION 34.** 108.05 (3) (a) of the statutes is renumbered 108.05 (3) (a) 2. and
12 amended to read:

13 108.05 (3) (a) 2. Except as provided in pars. (c), (d) and (dm) and s. 108.062, if
14 an eligible employee earns wages in a given week, the ~~first \$30 of the wages~~ up to the
15 amount specified in subd. 3. shall be disregarded and the employee's applicable
16 weekly benefit payment shall be reduced by 67 percent of the remaining amount,
17 except that no such employee is eligible for benefits if the employee's benefit payment
18 would be less than \$5 for any week.

19 1. For purposes of this paragraph, "wages" includes any salary reduction
20 amounts earned that are not wages and that are deducted from the salary of a
21 claimant by an employer pursuant to a salary reduction agreement under a cafeteria
22 plan, within the meaning of 26 USC 125, and any amount that a claimant would have
23 earned in available work under s. 108.04 (1) (a) which is treated as wages under s.
24 108.04 (1) (bm), but excludes any amount that a claimant earns for services

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1 performed as a volunteer fire fighter, volunteer emergency medical services
2 practitioner, or volunteer emergency medical responder.

3 4. In applying this paragraph, the department shall disregard discrepancies
4 of less than \$2 between wages reported by employees and employers.

5 **SECTION 35.** 108.05 (3) (a) 3. of the statutes is created to read:

6 108.05 (3) (a) 3. For purposes of subd. 2., the maximum amount of wages that
7 may be disregarded in a given week shall be an amount equal to 40 percent of the
8 employee's weekly benefit rate or \$30, whichever is greater.

9 **SECTION 36.** 108.13 (4) (a) 4. of the statutes is renumbered 108.13 (4) (a) 2m.
10 and amended to read:

11 108.13 (4) (a) 2m. "~~Unemployment insurance~~" "Reemployment assistance"
12 means any compensation payable under this chapter, including amounts payable by
13 the department pursuant to an agreement under any federal law providing for
14 compensation, assistance or allowances with respect to unemployment.

15 **SECTION 37.** 108.133 (2) (a) (intro.) of the statutes is amended to read:

16 108.133 (2) (a) (intro.) ~~Promulgate~~ Immediately promulgate rules to establish
17 the program. The department shall do all of the following in the rules promulgated
18 under this paragraph:

19 **SECTION 38.** 108.133 (2) (am) of the statutes is amended to read:

20 108.133 (2) (am) ~~Promulgate~~ Immediately promulgate rules identifying
21 occupations for which drug testing is regularly conducted in this state. The
22 department shall notify the U.S. department of labor of any rules promulgated under
23 this paragraph.

24 **SECTION 39.** 108.14 (1) of the statutes is amended to read:

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1 108.14 **(1)** This chapter shall be administered by the department through its
2 division of reemployment assistance.

3 **SECTION 40.** 108.14 (8o) of the statutes is created to read:

4 108.14 **(8o)** The department shall act to continue to receive grants for
5 reemployment services and eligibility assessments under 42 USC 506.

6 **SECTION 41.** 108.14 (30) of the statutes is created to read:

7 108.14 **(30)** (a) 1. The department shall semiannually compile data and prepare
8 a report to provide information on and analysis of the employment outcomes of
9 claimants after receiving benefits under this chapter.

10 2. a. Each report under subd. 1. shall be prepared using data obtained from
11 quarterly wage reports filed under s. 108.205 pertaining to all claimants whose data
12 is included in that report as provided in subd. 3.

13 b. Each report under subd. 1. shall cover the 2 most recent quarters for which
14 data are available, with each of the 2 quarters reported on separately in the report.

15 3. A claimant's data shall be used under subd. 2. for each of the 12 quarters
16 following the claimant's first benefit payment in the claimant's benefit year.

17 4. The department shall break out the data in each report under subd. 1. by all
18 of the following:

19 a. The number of weeks of benefits received. The department may group
20 together claimants who received comparable numbers of weeks of benefits.

21 b. Regions of the state, using the regions corresponding to those for local
22 workforce development boards established under 29 USC 3122.

23 (b) The department shall, by March 1 and September 1 of each year, submit the
24 most recent report prepared under par. (a) to the appropriate standing committees
25 of the legislature under s. 13.172 (3).

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1 **SECTION 42.** 108.141 (1) (b) 3. of the statutes is amended to read:

2 108.141 (1) (b) 3. Has no right to ~~unemployment~~ reemployment assistance
3 benefits or allowances, as the case may be, under the railroad unemployment
4 insurance act or such other federal laws as are specified in regulations issued by the
5 U.S. secretary of labor, and has not received and is not seeking ~~unemployment~~
6 reemployment assistance benefits under the ~~unemployment—insurance~~
7 reemployment assistance law of Canada, but if the individual is seeking such
8 benefits and the appropriate agency finally determines that he or she is not entitled
9 to benefits under such law he or she is an exhaustee.

10 **SECTION 43.** 108.142 (1) (h) 3. of the statutes is amended to read:

11 108.142 (1) (h) 3. Has no right to ~~unemployment~~ reemployment assistance
12 benefits or allowances under the railroad unemployment insurance act or such other
13 federal laws as are specified in regulations issued by the U.S. secretary of labor, and
14 has not received and is not seeking ~~unemployment~~ reemployment assistance
15 benefits under the ~~unemployment—insurance~~ reemployment assistance law of
16 Canada, but if the individual is seeking such benefits and the appropriate agency
17 finally determines that he or she is not entitled to benefits under that law, the
18 individual is an “exhaustee”.

19 **SECTION 44.** 108.19 (1m) of the statutes is amended to read:

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

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1 under s. 108.15 (2), 108.151 (2), or 108.152 (1) shall be 75 percent of the rate
2 established for other employers. The amount of any employer's assessment shall be
3 the product of the rate established for that employer multiplied by the employer's
4 payroll of the previous calendar year as taken from quarterly employment and wage
5 reports filed by the employer under s. 108.205 (1) or, in the absence of the filing of
6 such reports, estimates made by the department. Each assessment made under this
7 subsection is due within 30 days after the date the department issues the
8 assessment. If the amounts collected from employers under this subsection exceed
9 the amounts needed to pay interest due, the department shall use any excess to pay
10 interest owed in subsequent years on advances from the federal unemployment
11 account. If the department determines that additional interest obligations are
12 unlikely, the department shall transfer the excess to the balancing account of the
13 fund, the ~~unemployment~~ reemployment assistance program integrity fund, or both
14 in amounts determined by the department.

15 **SECTION 45.** 111.39 (4) (c) of the statutes is amended to read:

16 111.39 (4) (c) If, after hearing, the examiner finds that the respondent has
17 engaged in discrimination, unfair honesty testing or unfair genetic testing, the
18 examiner shall make written findings and order such action by the respondent as
19 will effectuate the purpose of this subchapter, with or without back pay. If the
20 examiner awards any payment to an employee because of a violation of s. 111.321 by
21 an individual employed by the employer, under s. 111.32 (6), the employer of that
22 individual is liable for the payment. If the examiner finds a respondent violated s.
23 111.322 (2m), the examiner shall award compensation in lieu of reinstatement if
24 requested by all parties and may award compensation in lieu of reinstatement if
25 requested by any party. Compensation in lieu of reinstatement for a violation of s.

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1 111.322 (2m) may not be less than 500 times nor more than 1,000 times the hourly
2 wage of the person discriminated against when the violation occurred. Back pay
3 liability may not accrue from a date more than 2 years prior to the filing of a
4 complaint with the department. Interim earnings or amounts earnable with
5 reasonable diligence by the person discriminated against or subjected to unfair
6 honesty testing or unfair genetic testing shall operate to reduce back pay otherwise
7 allowable. Amounts received by the person discriminated against or subject to the
8 unfair honesty testing or unfair genetic testing as ~~unemployment~~ reemployment
9 assistance benefits or welfare payments shall not reduce the back pay otherwise
10 allowable, but shall be withheld from the person discriminated against or subject to
11 unfair honesty testing or unfair genetic testing and immediately paid to the
12 unemployment reserve fund or, in the case of a welfare payment, to the welfare
13 agency making the payment.

14 **SECTION 46.** 230.43 (4) of the statutes is amended to read:

15 230.43 (4) RIGHTS OF EMPLOYEE. If an employee has been removed, demoted or
16 reclassified, from or in any position or employment in contravention or violation of
17 this subchapter, and has been restored to such position or employment by order of
18 the commission or any court upon review, the employee shall be entitled to
19 compensation therefor from the date of such unlawful removal, demotion or
20 reclassification at the rate to which he or she would have been entitled by law but
21 for such unlawful removal, demotion or reclassification. Interim earnings or
22 amounts earnable with reasonable diligence by the employee shall operate to reduce
23 back pay otherwise allowable. Amounts received by the employee as ~~unemployment~~
24 reemployment assistance benefits or welfare payments shall not reduce the back pay
25 otherwise allowable, but shall be withheld from the employee and immediately paid

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1 to the unemployment reserve fund or, in the case of a welfare payment, to the welfare
2 agency making such payment. The employee shall be entitled to an order of
3 mandamus to enforce the payment or other provisions of such order.

4 **SECTION 47.** 230.85 (3) (d) of the statutes is amended to read:

5 230.85 (3) (d) Interim earnings or amounts earnable with reasonable diligence
6 by the person subjected to the retaliatory action or threat shall reduce back pay
7 otherwise allowable. Amounts received by the person subjected to the retaliatory
8 action or threat as ~~unemployment~~ reemployment assistance benefits or welfare
9 payments do not reduce the back pay otherwise allowable, but shall be withheld from
10 the person subjected to the retaliatory action or threat and immediately paid to the
11 unemployment reserve fund or to the welfare agency making the payment.

12 **SECTION 48.** 779.01 (2) (am) of the statutes is amended to read:

13 779.01 (2) (am) “Labor” includes any wages and related contributions for state
14 employment taxes, worker’s compensation and ~~unemployment—compensation~~
15 insurance reemployment assistance, and other fringe benefits.

16 **SECTION 49. Terminology changes.**

17 (1) UNEMPLOYMENT INSURANCE; TERMINOLOGY CHANGES.

18 (a) Wherever “unemployment insurance” appears in the following, as affected
19 by the acts of 2021, “reemployment assistance” is substituted: ss. 6.10 (9), 13.63 (1)
20 (b), 15.227 (3), 16.48 (1) (a) (intro.), 1., 2., and 6. and (b), (2), and (3), 19.85 (1) (ee),
21 20.002 (11) (a), 20.445 (1) (gm), (n), and (ne), 29.024 (2r) (title) and (d) 1., 46.272 (7)
22 (e), 47.035 (1), 48.715 (7), 49.163 (2) (am) 5., 49.19 (4) (dm) 4., 50.498 (title) and (4)
23 (b), 51.032 (title) and (4), 59.40 (2) (e), 59.57 (2) (b), 66.1103 (1) (a), 71.01 (10) (b),
24 71.05 (6) (b) 47m., 71.26 (1) (h), 71.45 (1) (c), 71.52 (6), 71.67 (7) (a) and (b) 2., 71.80
25 (16) (a) and (b), 73.0301 (2) (c) 2., 73.09 (8), 93.135 (title) and (4), 101.654 (2) (c),

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1 102.17 (1) (c) 2., 102.28 (7) (b) 2., 102.315 (2m) (d), 103.34 (10) (title), 103.92 (3) and
2 (8) (title), 105.13 (1), 108.02 (15) (c) 1., (dm) 1., (e), (i) 2., (k) 9., 10., and 19. b., (21)
3 (a) 2. and (b), (21e) (e), 108.04 (2) (ae), (4) (c), (5) (intro.), (5g) (a), (7) (a) and (L), (8)
4 (a) and (c), (11) (g) 2. d., (12) (c) and (d), and (13) (g) 2., 108.06 (5) (a), 108.065 (3),
5 108.068 (6), 108.07 (3m) and (5m), 108.13 (2) and (4) (b), (c), (e), and (f), 108.135 (1)
6 (intro.) and (a), 108.14 (5) (a), (ag), and (ar), (6), (7) (a), (8) (a), (8m) (a), (8n) (a) and
7 (b), (8s) (a) and (b), (8t), (9), (13), (14), (18), (19), (23) (b) 1., and (24), 108.141 (1) (h)
8 and (3g) (a) 2., (c), and (d), 108.142 (1) (i), 108.155 (6), 108.16 (5) (b), 108.161 (3) and
9 (3e), 108.162 (1), 108.19 (1e) (d), (1f) (b), (3), and (4), 108.20 (2m), 108.227 (title) and
10 (2) (c) 2., 115.31 (6m), 116.03 (4), 118.19 (1m) (b), 120.25 (2) (a) and (6), 138.09 (3) (am)
11 2. and (4) (c), 138.12 (4) (b) 5m. and (5) (am) 1. b. and 3., 138.14 (5) (b) 2m. and (9)
12 (cm), 146.40 (4d) (d), 165.066 (title), 169.35 (title) and (3), 170.12 (8) (b) 1. bm. and
13 4., 175.46 (5) (a), 202.021 (4) (a) 6., 202.06 (2) (g), 202.23 (2), 217.06 (5m), 217.09 (1t),
14 218.0116 (1g) (b) and (1m) (a) 2m. and (d), 218.02 (3) (dm), (6) (d), and (9) (a) 1m.,
15 218.04 (4) (am) 2m. and (5) (at), 218.05 (4) (c) 2m., (11) (bm), and (12) (at), 218.11 (6m)
16 (c), 218.12 (3m) (c), 218.22 (3m) (c), 218.32 (3m) (c), 218.41 (3m) (b) 3., 218.51 (4m)
17 (b) 3., 224.44 (title), 224.72 (7m) (bm), 224.725 (6) (bm), 224.77 (2m) (e), 224.95 (1)
18 (bm), 230.26 (4), 238.31 (1) (e) 4. c., 238.397 (2) (a) 4. c., 254.115 (title) and (5), 254.176
19 (5), 254.20 (7), 256.18 (title) and (4m), 299.07 (title) and (3), 303.08 (3), (4), and (5)
20 (intro.), 341.51 (4m) (c), 343.305 (6) (e) 6., 343.66 (3m), 440.12 (title) and (2), 463.14
21 (title) and (5), 551.412 (4g) (a) 2m. and (d), 562.05 (5) (a) 11. and (8) (f), 563.285 (title)
22 and (1m), 628.097 (title) and (2m), 628.10 (2) (cm), 628.93 (2), 632.69 (2) (d) 2. and
23 (4) (d), 633.14 (2m) (b), 633.15 (2) (d), 751.155 (title) and (3), 815.18 (13) (j), 859.02
24 (2) (a), and 949.06 (3) (b).

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1 (b) Wherever “unemployment compensation” appears in the following, as
2 affected by the acts of 2021, “reemployment assistance” is substituted: ss. 49.45 (23b)
3 (a) 2. f., 71.07 (6n) (c) 3., 71.28 (6n) (c) 3., 71.47 (6n) (c) 3., 108.04 (13) (g) 1. b., 108.11
4 (2), 701.0508 (1) (b) 1., 756.04 (2) (c) 4., and 767.75 (3m) (title).

5 (c) Wherever “unemployment” appears in the following, as affected by the acts
6 of 2021, “reemployment assistance” is substituted: ss. 20.427 (1) (k) (title), 20.445 (1)
7 (gc) (title), (gg) (title), (gh) (title), (nb) (title), (u), and (v), 25.17 (1) (xe) and (xf), 108.04
8 (2) (bb) 5., 108.16 (6) (i) and (m) and (6m) (b), 108.19 (title), (1f) (a), (1q), and (1s) (a)
9 (intro.) and 2. and (b), 108.221 (3), 108.225 (4) (b), and 111.15.

SECTION 50. Nonstatutory provisions.

10
11 (1) The department of workforce development shall submit a notice to the
12 legislative reference bureau for publication in the Wisconsin Administrative
13 Register when the department determines that the department has any rules in
14 place that are necessary to implement the treatment of s. 108.04 (2) (a) 3. by this act.

SECTION 51. Initial applicability.

15
16 (1) The treatment of s. 108.04 (2) (a) 3. first applies with respect to weeks of
17 unemployment beginning on the effective date of this subsection.

18 (2) The renumbering and amendment of s. 108.04 (2) (a) 4. and (15) (a) 2., the
19 consolidation, renumbering, and amendment of s. 108.04 (15) (a) (intro.) and 1., and
20 the creation of s. 108.04 (2) (a) 4. c. and 5. and (15) (a) 2. b., (am), (an), and (ao) first
21 apply with respect to weeks of unemployment beginning on the effective date of this
22 subsection.

23 (3) The renumbering and amendment of s. 108.05 (3) (a) and the creation of s.
24 108.05 (3) (a) 3. first apply to weeks of unemployment beginning on the effective date
25 of this subsection.

