Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 29, 1997

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 571/Senate Bill 327: Workforce Development--Unemployment Compensation

Assembly Bill 571 and Senate Bill 327 are identical bills that would modify provisions relating to the state's unemployment compensation laws. The bills were introduced at the request of the Unemployment Compensation Advisory Council, a ten-member council appointed by the Secretary of the Department of Workforce Development (DWD). AB 571 and SB 327 were recommended for approval on October 23, 1997, by the Assembly Committee on Labor and Employment by a vote of 10 to 0 and by the Senate Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs by a vote of 7 to 0.

SUMMARY OF BILLS

Tax Provisions

Additional Tax Rate Schedule. In general, private, for-profit businesses must make unemployment contribution payments if they pay wages of at least $1,500 for employment during the calendar quarter or if they employ at least one individual for some portion of a day during at least 20 different weeks during the current or preceding year. Employers who are subject to contribution financing are required to make contribution payments to the unemployment compensation reserve fund. The specific payments made by a business are determined by applying the employer's combined contribution and solvency rates to its taxable payroll. Currently, an employer's taxable payroll is equal to the first $10,500 paid in a calendar year to each employe working in covered employment. The employer's contribution rate and, indirectly, its solvency rate are based on the employer's unemployment experience. This experience is

reflected in an employer account balance in the unemployment reserve fund. The account balance is the net of all tax payments less benefit charges for that employer.

Each June 30, the balance in an employer's unemployment reserve fund account is calculated and divided by the employer's taxable payroll for the preceding year. This computation yields a reserve percentage which serves as an indicator of the status of the employer's account in relationship to the size of the employer's taxable payroll. A positive reserve percentage indicates that an employer has paid more in contributions than its employes have drawn in benefits, while a negative reserve percentage indicates that the opposite is true. To determine an employer's contribution rate, the employer's reserve percentage is compared to a related rate in a statutory table. The required contribution payment an employer must make is calculated by multiplying the employer's taxable payroll by the employer's contribution rate. This payment is then credited to the employer's account. Most of the benefits paid to an employer's laid off employes are charged against the employer's account, although the benefits are actually paid from a common fund.

All employers who make regular contributions to the unemployment reserve fund are also required to make solvency contributions. The solvency contribution for each employer is determined by linking the employer's contribution rate to the appropriate solvency tax rate in the statutory rate schedule and applying the appropriate rate to the employer's taxable payroll. These payments are credited to the unemployment reserve fund's balancing account, not the individual employer's account, so that solvency contributions do not affect the employer's reserve percentage. In certain cases, the balancing account is used to pay unemployment compensation benefits which cannot be charged to an individual employer's account.

Under current law, there are three different sets of contribution and solvency rate schedules. In addition, each solvency rate schedule distinguishes between employers with taxable payrolls of less than $500,000 and employers with taxable payrolls of $500,000 or more. The specific rate schedule that applies in a given year depends upon the balance in the state's unemployment reserve fund on the prior June 30. Schedule A is effective if the balance in the state's unemployment reserve fund is less than $300 million. Schedule B is in effect if the balance in the fund is at least $300 million but less than $1 billion, and Schedule C applies if the balance in the fund exceeds $1 billion.

Based on the balance in the state's unemployment reserve fund as of June 30, 1997, Schedule C applies for unemployment compensation taxes due for calendar year 1998. As a result, the contribution rate schedule in effect ranges from 0.0% to 8.9% while the solvency rate schedule ranges from .02% to 0.85%. Thus, in Wisconsin, the combined (contribution and solvency) unemployment compensation rate schedule ranges from a minimum of 0.02% to a maximum of 9.75%.

AB 571 and SB 327 would establish a new contribution and solvency rate schedule (Schedule D) and would modify the reserve fund level at which schedules B, C and D would apply. The Schedule D contribution rates would be slightly lower (0.10%) than the Schedule C

rates for employers with positive reserve percentages and the same for negative reserve percentage employers. Schedule D rates would range from 0.0% to 3.9% for positive reserve percentage employers; Schedule C rates range from 0.0% to 4.0%. The solvency rates in Schedules C and D would be the same. Under the bills, Schedule B would be in effect if the balance in the state's unemployment reserve fund was at least $300 million but less than $900 million. Schedule C would be in effect whenever the balance the state's unemployment reserve fund was at least $900 million but less than $1.2 billion and Schedule D would be in effect whenever the reserve fund balance was at least $1.2 billion. Table 1 shows the contribution and solvency rate schedules that would exist if AB 571 and SB 327 were enacted. Since the June 30, 1997 balance in the state unemployment reserve fund exceeded $1.2 billion, Schedule D would be effective for 1998 taxes.

TABLE 1

Employers' Contribution and Solvency Rate Schedules Under AB 571 and SB 327

Reserve Percentage	*SCHEDULE A*						*SCHEDULE B*						*SCHEDULE C*						*SCHEDULE D*					
	Under $500,000 Taxable Payroll			$500,000 or More Taxable Payroll			Under $500,000 Taxable Payroll			$500,000 or More Taxable Payroll			Under $500,000 Taxable Payroll			$500,000 or More Taxable Payroll			Under $500,000 Taxable Payroll			$500,000 or More Taxable Payroll		
	Basic	Solvency	Total	Basic	Solvency	Total	Basic	Solvency	Total	Basic	Solvency	Total	Basic	Solvency	Total	Basic	Solvency	Total	Basic	Solvency	Total	Basic	Solvency	Total
15% or more	0.27	0.00	0.27	0.27	0.43	0.70	0.00	0.05	0.05	0.00	0.10	0.10	0.00	0.02	0.02	0.00	0.05	0.05	0.00	0.02	0.02	0.00	0.05	0.05
10% to 15%	0.27	0.00	0.27	0.27	0.43	0.70	0.20	0.05	0.25	0.20	0.10	0.30	0.20	0.02	0.22	0.20	0.05	0.25	0.10	0.02	0.12	0.10	0.05	0.15
9.5% to 10%	0.45	0.00	0.45	0.45	0.60	1.05	0.35	0.05	0.40	0.35	0.15	0.50	0.35	0.02	0.37	0.35	0.05	0.40	0.25	0.02	0.27	0.25	0.05	0.30
9.0% to 9.5%	0.53	0.00	0.53	0.53	0.70	1.23	0.45	0.05	0.50	0.45	0.20	0.65	0.45	0.02	0.47	0.45	0.05	0.50	0.35	0.02	0.37	0.35	0.05	0.40
8.5% to 9.0%	0.72	0.20	0.92	0.72	0.70	1.42	0.65	0.20	0.85	0.65	0.30	0.95	0.65	0.10	0.75	0.65	0.15	0.80	0.55	0.10	0.65	0.55	0.15	0.70
8.0% to 8.5%	0.79	0.30	1.09	0.79	0.80	1.59	0.80	0.20	1.00	0.80	0.35	1.15	0.80	0.10	0.90	0.80	0.20	1.00	0.70	0.10	0.80	0.70	0.20	0.90
7.5% to 8.0%	0.86	0.40	1.26	0.86	0.90	1.76	0.90	0.20	1.10	0.90	0.40	1.30	0.90	0.10	1.00	0.90	0.25	1.15	0.80	0.10	0.90	0.80	0.25	1.05
7.0% to 7.5%	0.97	0.50	1.47	0.97	1.00	1.97	1.05	0.25	1.30	1.05	0.45	1.50	1.05	0.15	1.20	1.05	0.30	1.35	0.95	0.15	1.10	0.95	0.30	1.25
6.5% to 7.0%	1.23	0.60	1.83	1.23	1.00	2.23	1.30	0.30	1.60	1.30	0.50	1.80	1.30	0.15	1.45	1.30	0.35	1.65	1.20	0.15	1.35	1.20	0.35	1.55
6.0% to 6.5%	1.48	0.70	2.18	1.48	1.10	2.58	1.60	0.35	1.95	1.60	0.55	2.15	1.60	0.20	1.80	1.60	0.40	2.00	1.50	0.20	1.70	1.50	0.40	1.90
5.5% to 6.0%	1.82	0.80	2.62	1.82	1.20	3.02	1.95	0.45	2.40	1.95	0.60	2.55	1.95	0.25	2.20	1.95	0.45	2.40	1.85	0.25	2.10	1.85	0.45	2.30
5.0% to 5.5%	2.16	0.90	3.06	2.16	1.30	3.46	2.30	0.50	2.80	2.30	0.65	2.95	2.30	0.30	2.60	2.30	0.50	2.80	2.20	0.30	2.50	2.20	0.50	2.70
4.5% to 5.0%	2.50	0.90	3.40	2.50	1.40	3.90	2.65	0.55	3.20	2.65	0.70	3.35	2.65	0.35	3.00	2.65	0.55	3.20	2.55	0.35	2.90	2.55	0.55	3.10
4.0% to 4.5%	2.84	1.00	3.84	2.84	1.50	4.34	3.00	0.60	3.60	3.00	0.70	3.70	3.00	0.40	3.40	3.00	0.55	3.55	2.90	0.40	3.30	2.90	0.55	3.45
3.5% to 4.0%	3.18	1.10	4.28	3.18	1.60	4.78	3.45	0.65	4.10	3.45	0.70	4.15	3.45	0.40	3.85	3.45	0.55	4.00	3.35	0.40	3.75	3.35	0.55	3.90
0% to 3.5%	3.57	1.20	4.77	3.57	1.70	5.27	4.00	0.65	4.65	4.00	0.70	4.70	4.00	0.40	4.40	4.00	0.55	4.55	3.90	0.40	4.30	3.90	0.55	4.45
0% to - 1%	5.70	0.90	6.60	5.70	0.90	6.60	5.70	0.90	6.60	5.70	0.90	6.60	5.70	0.70	6.40	5.70	0.70	6.40	5.70	0.70	6.40	5.70	0.70	6.40
- 1% to - 2%	6.20	0.90	7.10	6.20	0.90	7.10	6.20	0.90	7.10	6.20	0.90	7.10	6.20	0.70	6.90	6.20	0.70	6.90	6.20	0.70	6.90	6.20	0.70	6.90
- 2% to - 3%	6.70	0.90	7.60	6.70	0.90	7.60	6.70	0.90	7.60	6.70	0.90	7.60	6.70	0.70	7.40	6.70	0.70	7.40	6.70	0.70	7.40	6.70	0.70	7.40
- 3% to - 4%	7.20	0.90	8.10	7.20	0.90	8.10	7.20	0.90	8.10	7.20	0.90	8.10	7.20	0.70	7.90	7.20	0.70	7.90	7.20	0.70	7.90	7.20	0.70	7.90
- 4% to - 5%	7.70	0.90	8.60	7.70	0.90	8.60	7.70	0.90	8.60	7.70	0.90	8.60	7.70	0.80	8.50	7.70	0.80	8.50	7.70	0.80	8.50	7.70	0.80	8.50
- 5% to - 6%	8.20	0.90	9.10	8.20	0.90	9.10	8.20	0.90	9.10	8.20	0.90	9.10	8.20	0.85	9.05	8.20	0.85	9.05	8.20	0.85	9.05	8.20	0.85	9.05
- 6% or more	8.90	0.90	9.80	8.90	0.90	9.80	8.90	0.90	9.80	8.90	0.90	9.80	8.90	0.85	9.75	8.90	0.85	9.75	8.90	0.85	9.75	8.90	0.85	9.75

Schedule A would be effective with an Unemployment Reserve Fund balance of less than $300 million.
Schedule B would be effective with an Unemployment Reserve Fund balance of $300 million to $900 million.
Schedule C would be effective with an Unemployment Reserve Fund balance of $900 million to $1.2 billion.
Schedule D would be effective with an Unemployment Reserve Fund balance in excess of $1.2 billion.

Administrative Assessment for Technology Development. The bills would impose an assessment on employers subject to contribution financing in 1998 and 1999 to fund the costs of designing and developing major unemployment insurance information technology system improvements. The assessment would equal 0.01% of taxable payroll for the year or the employer's solvency rate if the solvency rate was lower than 0.01%. DWD would be required to reduce an employer's solvency rate by the assessment rate for each year and the Department would be authorized to reduce or eliminate the assessment in any year it determined that a reduced amount of funding would be sufficient to finance technology design and development. DWD could not impose the assessment unless it published public notice that the assessment was in effect for that year. The Department would also be required to submit quarterly reports to the Council on Unemployment Compensation which would describe the use of funding for technology design and development and the status of any projects for which the funding was expended.

The bills would create a separate continuing program revenue appropriation in which the assessments would be placed. The funding in the appropriation could only be used for the design and development of unemployment insurance information technology systems. Because the appropriation would be continuing, funding in the appropriation could continue to be used for technology projects after the assessment was sunset on December 31, 1999. However, the treasurer of the unemployment reserve fund would be authorized to transfer funding from this appropriation to the unemployment interest and penalties appropriation.

The bills would also create a new program revenue, continuing appropriation and $1,000,000 PR would be appropriated in 1997-98 from the unemployment interest and penalty appropriation to fund one-time costs of unemployment insurance technology design and development projects. In addition, a separate FED appropriation would be created and the treasurer of the unemployment reserve fund could transfer up to $450,000 FED in 1997-98 from the unemployment administration appropriation also to fund technology development projects. The treasurer would be required to transfer any amounts not needed or available to fund technology design and development projects back to the administration appropriation. No moneys could be expended from this appropriation unless the treasurer determined the moneys were needed to fund eligible technology projects. No monies could be encumbered from the appropriation after the beginning of the third 12-month period after the effective date of the provision.

Personal Liability for Unpaid UC Taxes and Penalties. Under current law, any officer, employe or member or manager with at least 20% ownership interest of a corporation or a limited liability company (LLC) who has control, supervision or responsibility for filing contribution reports or making contribution payments and who wilfully fails to file such reports or make payments may be found personally liable for late contribution payments, including interest, late payment or filing fees and any other fees. Under the bills, ownership interest in a corporation or LLC would be defined to include ownership or control, directly or indirectly, by legally enforceable means or otherwise, by the individual, the individual's spouse or child, by the individual's parent if the individual is under 18, or by a combination of two or more of these individuals, as well as such ownership of an interest in a parent corporation or LLC of which the

corporation or LLC is a subsidiary. In addition, current law conditions for personal liability would be modified to include wilful failure to ensure that required reports and payments were made. The provision is intended to prevent owners from avoiding personal liability for unpaid UC taxes and related fees by assigning ownership to third parties.

Taxation of Employe Service Companies. Under current law, an employe service company is a service company or temporary help service which contracts with clients or customers to supply individuals to perform services for the client or customer and which, both under contract or fact:

a. Negotiates with clients or customers for such matters as time, place, type of work, working conditions, quality and price of the services;

b. Determines assignments or reassignments of individuals to its clients or customers, even if the individuals retain the right to refuse specific assignments;

c. Sets the rate of pay of the individuals, whether or not through negotiation;

d. Pays the individuals from its account or accounts; and

e. Hires and terminates individuals who perform services for the clients or customers.

A company which meets the definition of an employe service company is considered an employer for unemployment compensation purposes if the employe service company is the employer of an individual who is engaged in employment performing services for a client or customer of the employe service company and if the employe service company is taxed under the federal unemployment tax act (FUTA) on the basis of employment. AB 571 and SB 327 would delete the requirement that the employment service company must be taxed under FUTA to be considered an employer for unemployment compensation purposes. This modification would make employe service companies that meet the definition of such companies subject to the state unemployment compensation law, regardless of whether or not they were taxed under FUTA.

Benefit Provisions

Maximum Benefit Payment. Under current law, an individual who meets the qualifying requirements receives unemployment compensation benefits based on the amount of wages paid in the base period. The base period is the first four of the five most recently completed calendar quarters. The weekly benefit rate an individual can receive is the lesser of $282 or 4% of the wages paid to the individual during the calendar quarter in the individual's base period in which the individual was paid the highest total wages. The maximum total benefits available are the lesser of 26 times the weekly benefit rate or 40% of base period wages.

AB 571 and SB 327 would increase the maximum weekly benefit rate from the current level of $282 to $297 in two stages. Specifically, for weeks of unemployment which begin after

January 4, 1998, and before January 3, 1999, the weekly benefit rate would be $290. For weeks of unemployment beginning on or after January 3, 1999, the maximum weekly benefit rate would increase to $297.

Minimum Weekly Benefit Rate. Currently, the minimum weekly benefit rate is 19% of the maximum weekly benefit rate or $53 ($282 x .19). Claimants with high quarter wages that do not generate a weekly benefit rate of at least the minimum amount do not qualify for unemployment compensation benefits. Under AB 571 and SB 327 the minimum benefit rate would equal 15% of the maximum weekly benefit rate or $43 for 1998 ($290 x .15) and $44 for 1999 and thereafter ($297 x .15).

Benefit Qualifying Requirements. Currently, in order to be eligible for unemployment compensation payments, a claimant must be paid 30 times his or her weekly benefit rate in the base period including seven times the weekly benefit rate outside the quarter in which the individual receives the highest total wages. AB 571 and SB 327 would modify this provision to require that a claimant earn four times the weekly benefit rate outside the high quarter.

[The attachment illustrates the method of calculating unemployment benefits under the provisions in the bills. The information provided shows the benefits that would be received with the maximum weekly benefit rate at $297.]

Reporting on Certain Cafeteria Benefit Plan Payments. As noted, under current law, eligibility for and the amount of unemployment compensation benefits received depend on the wages paid to an employe by an employer during the base period. In addition, regular unemployment benefits may be available to individuals who are partially employed during a week. With certain exceptions, to determine the benefit payment of a person who is partially employed, the first $30 of wages is excluded and the benefit payment is reduced by 67% of the individual's remaining wages. Wages are generally defined as every form of remuneration payable, directly or indirectly, for a given period by an employing unit to an individual for personal services. The state unemployment compensation law contains numerous provisions which define the specific types of remuneration that are included and excluded. The source of information about remuneration paid to employes are quarterly wage reports filed with DWD.

Under current law, base period wages include all amounts paid to an employe by an employer as salary during the employe's base period including amounts which are not subject to federal income tax because the employe authorized them withheld from gross wages by a salary reduction plan under a cafeteria plan, as defined in the federal Internal Revenue Code. Similarly, amounts deducted from gross wages through salary reduction agreements under cafeteria plans are treated as wages in determining partial unemployment benefits. Under AB 571 and SB 327, DWD would be authorized to require, by rule, each employer to report amounts withheld by cafeteria plan salary reduction agreements along with wages in quarterly wage reports filed with the Department.

Requalification for Extended Benefits. Currently, if an employe, without good cause, fails to make a weekly systematic and sustained effort to obtain work, to accept suitable work when

offered or fails to return to work when recalled, the employe is ineligible to receive any unemployment compensation benefits, including federal extended benefits, unless he or she requalifies. In order to requalify for federal extended benefits, the employe must work during four subsequent weeks and earn wages equal to at least four times the weekly extended benefit rate he or she would have received had the failure to apply for or take work not occurred. Similarly, under most circumstances, an employe who voluntarily terminates his or her employment or is suspended for misconduct is ineligible to receive any unemployment compensation benefits, including extended benefits, unless he or she requalifies. The employe must work at least four subsequent weeks and earn at least four times the weekly extended benefit rate.

AB 571 and SB 327 would require employes that were subject to these requalification requirements to work for at least four subsequent weeks in employment or other work covered by the unemployment compensation law of any state or the federal government and earn wages of at least four times the weekly extended benefit rate in such employment. These provisions would require that wages used to requalify for federal extended benefits would be earned in employment covered by federal or state unemployment compensation laws and bring the state provisions in conformity with federal requirements as specified by the U.S. Department of Labor. In addition, the provisions would be comparable to requalification requirements for state unemployment compensation benefits which require that wages be earned in covered employment.

Eligibility to Establish a New Benefit Year. Under current law, a claimant is not eligible to start a new benefit year unless the claimant earns wages equal to at least eight times the employe's most recent weekly benefit rate since the start of the previous benefit year. The bills would modify this provision to require that the employe perform services and earn wages for those services of at least eight times the weekly benefit rate since the beginning of the previous benefit year. This modification is intended to prevent cases where claimants could establish two consecutive benefit years based on one period of employment and one layoff. Some claimants have used vacation pay to satisfy the wage earnings requirement.

Administrative Provisions

Definition of Employe. "Employe" is generally defined as an individual who is or has been performing services for an employing unit, in an employment, whether or not the individual is paid directly by such employing unit. However, there are certain exceptions to the definition of employe:

1. In general, an individual is not considered an employe if the employing unit satisfies DWD that the individual holds or has applied for an employer identification number with the federal Internal Revenue Service or has filed federal business or self-employment income tax returns based on such services in the previous year. In addition, the individual must meet at least six of eight statutory conditions relating to the degree of independence the individual has in

performing services. This provision currently applies to individuals performing services for a governmental unit or a nonprofit organization.

2. In cases where an individual performs services for an employing unit in a capacity as a contract operator with a carrier or as a skidding operator or piece cutter with a forest products manufacturer or a logging contractor, the individual is not considered an employe if the employing unit satisfies to the Department that: (a) such individual has been and will continue to be free from the employing unit's control or direction over the performance of his or her services both under his or her contract and in fact; and (b) such services have been performed in an independently established trade, business or profession in which the individual is customarily engaged.

Instead of the general exception, AB 571 and SB 327 would apply the second exception to the definition of employe to an individual performing services for a governmental unit or a nonprofit organization. This modification would bring the statutory provision in conformity with federal law with respect to employes of nonprofit organizations and governmental units.

Set Aside, Amendment or Reopening of Benefit Claims Determinations and Decisions. Under present law, if a dispute originates over an unemployment compensation benefits claim filed by an individual, the Department will make an investigation and issue an initial determination regarding the employe's benefit rights. Benefits will either be paid to or withheld from the individual on the basis of this determination, regardless of whether the losing party plans to appeal the decision. If a party to the dispute disagrees with the initial determination, that party has 14 days to file a written request for an appeal. Unless a party to the dispute files a timely request for an appeals hearing regarding a determination, the Department may set aside or amend a determination within one year of the date of the determination based on subsequent information or to correct a mistake, including an error of law. DWD may set aside or amend a determination at any time if it finds that fraud or concealment occurred.

After DWD receives a request for an appeal of a determination, it schedules a hearing with an appeal tribunal, which is conducted by a hearing examiner. The hearings are quasi-judicial proceedings, at which both sides are allowed to give testimony and cross examine each other under oath. A written decision is issued by the appeal tribunal based on the evidence received at the hearing. The appeal tribunal may affirm, reverse or modify the initial determination of the Department or set aside the determination and remand the matter to the Department for further proceedings or the tribunal may remand any issue not previously investigated by the Department to the Department for consideration.

The appeal tribunal may set aside or amend part or all of an appeal tribunal decision at any time to correct a technical or clerical mistake unless a party to the dispute has filed a timely petition for review of the decision by the Labor and Industry Review Commission (LIRC). If a party to the dispute does not petition LIRC to review an appeal tribunal decision, within one year after the date of the decision, the appeal tribunal may reopen its decision if it has reason to believe that a party to the dispute offered false evidence or a witness gave false testimony on an issue material to the decision.

The decision of an appeal tribunal can be appealed to LIRC within 21 days of the decision. The Commission may affirm, reverse, modify or set aside the decision based on previously submitted evidence or it may request additional information. The Commission may also remand the matter to the Department for further proceedings. On its own motion and for reasons it deems sufficient, LIRC may set aside any final determination of the Department or appeal tribunal or Commission decision within one year if there was a mistake or there is newly discovered evidence.

AB 571 and SB 327 would increase from one year to two years the period in which: (a) the Department could set aside or amend a determination based on subsequent information or to correct a mistake; (b) an appeal tribunal could reopen a decision because of false evidence and false testimony on an issue material to the decision; and (c) LIRC could set aside or amend any final determination by the Department or appeal tribunal or Commission decision based on a mistake or newly discovered evidence.

In addition, under the bills, the Department could set aside or amend a determination, an appeal tribunal could set aside or amend a decision and LIRC could set aside or amend a Department determination or appeal tribunal or Commission decision at any time if benefits paid or payable to a claimant were affected by wages earned by the claimant which were not paid and the Department, appeal tribunal or Commission was provided notice from the appropriate state or federal court or agency that a wage claim for those wages would not be paid in whole or part. DWD would be authorized to set aside or amend any benefit claims determination or appeal tribunal or LIRC decision that was adverse to a claimant and was issued within the four-year period prior to the effective date of the bills, if the Department found that the unemployment compensation benefits paid or payable to the claimant were affected by wages earned by the claimant which were not paid and the Department was provided with notice from the appropriate state or federal court or agency that a wage claim for those wages would not be paid in whole or part. This authority would not apply while the benefits claim was under appeal. These provisions are intended to allow the Department to recompute partial unemployment benefits for claimants in cases where wages are earned but are not paid due to bankruptcy or other situations but the unpaid wages are included in the original benefit determination. The Department has no authority under current law to recompute benefits in such situations that occur more than one year prior to the benefit claim.

Coverage of Wisconsin Service Corps (WSC) and Wisconsin Conservation Corps (WCC) Employes. Under current law, WSC members and WCC enrollees are specifically excluded from eligibility for unemployment compensation benefits by virtue of their employment in the corps. The 1997-99 biennial budget (1997 Wisconsin Act 27) includes provisions which specify that a corps member or assistant crew leader is not eligible for unemployment compensation benefits. WCC Corps members include enrollees, assistant crew leaders and crew leaders.

Federal law excludes participants in work-relief and work-training programs from unemployment compensation benefits. Under federal law, WCC enrollees and assistant crew leaders would be participants in a work-relief/work-training program. However, WCC crew leaders are not considered participants in such programs. Federal law provides that wages earned

by trainers and teachers in work-relief/work-training programs are earned in covered employment. AB 571 and SB 327 would delete the current law and the Act 27 provisions which exclude WSC and WCC members from eligibility to receive unemployment compensation benefits. This would bring state law into conformity with federal law and reflect current Department treatment of crew leaders, assistant crew leaders and enrollees.

Termination of Work During Canvassing Period. As noted, if an employe fails to accept suitable work or to return to work without good cause the employe must requalify to receive unemployment compensation benefits. However, an employe would have good cause to not accept or not return to work if the work offered was at a lower grade of skill or significantly lower rate of pay and the employe had not yet had a reasonable opportunity in view of labor market conditions and the employe's skill level, within a period of up to six weeks, to seek a job substantially in line with the employe's skill level and prior rate of pay. This six-week period is referred to as the canvassing period. If an employe takes a job he or she is not required to take, the employe may quit the job within a limited period of time without disqualification.

AB 571 and SB 327 would clarify that it is not necessary for the employe to articulate the existing statutory protection in order to avoid disqualification. In general, the Department applies the canvassing period provision to terminations in this manner.

Definition of Base Period Wages. The bills would clarify that base period wages include only wages that are paid during the base period, regardless of when they were earned and that base period wages must have been paid in at least two quarters of the base period.

Establishing Benefit Year. Currently, a claimant is required to request the Department to set aside a benefit year in writing. AB 571 and SB 327 would eliminate the requirement that such requests be in writing to permit claimants to make withdrawal requests by telephone. In addition, the bills would modify statutory provisions to clarify that a claimant may establish a benefit year in ways other than through a written request.

Name Change. The bills would change the name of and statutory references to the state unemployment compensation law to unemployment insurance. The Advisory Council would be renamed the Council on Unemployment Insurance. The change is intended to emphasize the temporary, insurance-like nature of the program.

FISCAL EFFECT

The fiscal note for the bills was prepared by the Department of Workforce Development. For purposes of making estimates of the various provisions, specific costs were also computed for 1998 and 1999 based on the state's economic forecast prepared by the Department of Revenue (Wisconsin Economic Outlook). Under the provisions of the bills, total taxes would be reduced by an estimated $19 million in 1998 and a lesser amount in 1999, depending on economic conditions. However, employers would pay an administrative fee for technology development totalling $2 million in each year. The provisions of the bills would also increase

total benefits by an estimated $9.0 million in 1998 and $17.6 million in 1999. The following sections provide more detail regarding these estimates.

Effect on the Unemployment Reserve Fund

Additional Tax Rate Schedule. AB 571 and SB 327 would establish a new contribution and solvency tax rate schedule that would be in effect whenever the balance in the Unemployment Reserve Fund exceeded $1.2 billion on the June 30 prior to the year in which the tax rates would apply. Basically, the new schedule would reduce the contribution rate 0.1% for positive balance employers. Since the June 30, 1997, balance was over $1.2 billion, the new rate schedule would apply for 1998 taxes. It is estimated that application of the new rate schedule would reduce state unemployment contribution payments by $17 million in 1998 and by a lesser amount in 1999 depending on the economic circumstances.

Administrative Assessment for Technology Development. The bills would impose an administrative fee on employers in 1998 and 1999 to fund the development and design of unemployment insurance information technology. The assessment would equal the lower of 0.01% or the employer's solvency rate applied to the employer's taxable payroll. DWD would be required to reduce each employer's solvency rate by the assessment rate. Consequently, total solvency payments would be reduced by $2 million in 1998 and 1999.

Maximum Benefit Payment. The bills would increase the maximum weekly benefit rate in two stages from the current $282 to $290 in January, 1998, and then to $297 in January, 1999. It is estimated that these provisions would increase benefit payments by $8.6 million in 1998 and $17.2 million in 1999.

Minimum Weekly Benefit Rate. The bills would decrease the minimum weekly benefit rate from 19% to 15% of the maximum weekly benefit rate or from $53 to $43 in 1998 and $44 in 1999. This provision would increase benefit payments by an estimated $300,000 annually.

Benefit Qualifying Requirements. AB 571 and SB 327 would reduce the required amount of wages that must be earned outside the high quarter from seven to four times the weekly benefit rate. This provision would increase benefit payments by an estimated $100,000 annually.

Effects on State and Local Expenditures

Administrative Fee for Technology Design and Development. As noted, the bills include provisions which would impose a 0.01% administrative fee on employers in 1998 and 1999 to fund unemployment insurance technology design and development. It is estimated that the fee would generate $2 million in each year. A continuing program revenue appropriation would be created into which assessments would be deposited. In addition, a separate continuing program revenue appropriation would be created and $1 million PR would be transferred to this appropriation from the unemployment insurance interest and penalty appropriation. Expenditure authority of $1 million PR would be provided in 1997-98. Finally, a separate federal revenue

appropriation would be created and $450,000 FED would be transferred to the new appropriation. Expenditure authority $450,000 FED would be provided in 1997-98. Funds from the latter two appropriations would be used to fund one-time costs associated with technology development projects. Therefore, total one-time funding of $1,450,000 would be provided in 1997-98. Ongoing funding would total $2 million annually in 1998 and 1999.

Increased Benefit Rate. The fiscal note indicates that the higher benefit rates would increase state and local government expenditures for unemployment compensation benefit payments. The Department estimates that local costs would be $256,000 and state costs would be $226,100 annually. Table 2 summarizes DWD's state cost estimates by source of funds. The bills would affect state unemployment compensation costs only in the second half of fiscal year 1997-98, when it is expected to add $128,000 to local costs and $113,200 to state costs.

TABLE 2

Estimated Increase in State Unemployment Compensation Benefit Expenditures

Source of Funds	1997-98	1998-99
GPR	$38,200	$76,300
FED	14,100	28,100
PR	35,700	71,400
SEG	25,200	50,300
Total	$113,200	$226,100

Prepared by: Ron Shanovich

ATTACHMENT

Computation of Weekly Unemployment Compensation Benefit Payments

A hypothetical example can be used to illustrate the method of determining unemployment compensation benefits under current law and under the provisions of the bills. Increasing the maximum weekly benefit rate would result in higher benefits for many claimants. In the following example, these provisions are illustrated for a claimant under current law and under the provisions of the bills when the maximum benefit rate is fully phased-in.

Wages Earned by Hypothetical Claimant
In First Four of last Five Quarters

Calendar Quarter	Earnings
Quarter 1	$3,500
Quarter 2	4,000
Quarter 3	4,200
Quarter 4	10,700
Total	$22,400

In the example, the hypothetical claimant earned a total of $22,400 in the base period and $10,700 in the calendar quarter in which the highest wages were earned. As noted, the base period is the first four of the previous five quarters. Therefore, earnings from the most recent calendar quarter are not included in base period wages.

The first step in computing the claimant's benefit payments is to determine the weekly benefit rate. The weekly benefit rate is equal to 4% of the wages in the calendar quarter in which the highest wages were earned, except that no more than the statutory maximum rate will be paid. In this case, 4% of $10,700 is $428. However, because the calculated rate exceeds the maximum weekly benefit rate provided in the statutes, the statutory rate would apply. In addition the claimant must make 30 times the weekly benefit rate in the base period and seven times the weekly benefit rate outside the high quarter. Total base period wages are $22,400 and wages outside the high quarter are $11,700. Wages of thirty times the 1999 maximum weekly benefit rate of $297 would be $8,910 and wages outside the high quarter are in excess of seven times the weekly benefit rate. Therefore, the claimant would qualify for benefits under current law and the provisions of the bills.

Under current law, the maximum weekly benefit rate is $282; this rate will be increased in two stages under the bills until a maximum weekly benefit rate of $297 is provided beginning

on January 3, 1999. Thus, in the example, the claimant's weekly benefit rate would be $297. Compared to current law, this represents an increase in the maximum weekly benefit rate of $15.

Total benefit payments are the lesser of 26 times the weekly benefit rate or 40% of base period wages. For the hypothetical claimant, the lesser amount is $7,722 ($297 x 26), rather than 40% of base period wages ($22,400 x 40%), or $8,960. The number of weeks for which the weekly benefit payment would be received is determined by dividing total benefit entitlement by the weekly benefit rate. In this case, that results in 26 weeks during which benefits would be paid ($7,722/$297).

MO# AB571/SB327
adoption

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 13 NO ____ ABS 3