

# UNEMPLOYMENT INSURANCE ADVISORY COUNCIL MEETING

Thursday September 22, 2011 – 9:30 A.M.

Offices of State of Wisconsin Investment Board

Room 226 (Board Room)

121 East Wilson Street

Madison, Wisconsin

## Individuals Present:

**Management:** James Buchen, Earl Gustafson, Dan Peterson, Edward Lump and Michael Gotzler

**Labor:** Phil Neuenfeldt, Patty Yunk, Sally Feistel and Terrance McGowan

**Chair:** Daniel LaRocque

Department Staff: Craig Barkelar (Unemployment Insurance Division Administrator), Andrea Reid (Unemployment Insurance Division Deputy Administrator), Tom McHugh (Unemployment Insurance Reserve Fund Treasurer, and Director, Unemployment Insurance Bureau of Tax and Accounting), Lutfi Shahrani (Director, Unemployment Insurance Bureau of Benefits), Connie Schulze (Department of Workforce Development Legislative Advisor), William Witter, Susan Blesener, Scott Sussman, Pam James, Troy Sterr, Timara Budach, Amy Banicki, Jason Schunk, Emily Savard, Bill Brueggeman, Angela Witt, Robin Gallagher

Others Present: Representative Chris Kapenga, 33<sup>rd</sup> Assembly District; Representative Evan Wynn, 43<sup>rd</sup> Assembly District; Lindsey Brabender, (Office of Representative Chris Kapenga); Representative Joan Ballweg, 41<sup>st</sup> Assembly District; Representative Tom Larson, 67<sup>th</sup> Assembly District; Representative Mike Endsley, 26<sup>th</sup> Assembly District; Representative Pat Strachota, 58<sup>th</sup> Assembly District Stephanie Kundert (Office of Representative Joel Kleefisch); Andrew Hanus (Office of Senator Mary Lazich); John Vanderleest (Office of Senator Frank Lasee); Rebecca Hogan (Wisconsin Manufacturers & Commerce); Bob Andersen (Legal Action of Wisconsin); Larry Smith (UC Management Services); Victor Forberger (Atty. Unemployment Compensation Appeals Clinic); Brian Dake (Wisconsin Independent Businesses, Inc.); Jonathan Hoechst (Department of Administration Budget Office)

- 1. Call to Order and Introductions:** Mr. LaRocque called the meeting to order at 9:42 a.m. and acknowledged the presence of Assembly Representative Joan Ballweg, Chair of the Assembly Labor Committee, Assembly Representative Chris Kapenga, Assembly Representative Evan Wynn, Assembly Representative Tom Larson, and Assembly Representative Pat Strachota.
- 2. September 1, 2011 Minutes - Motion** (Yunk), second (McGowan) to approve the minutes of September 1, 2011, approved 8 ayes, 0 noes.
- 3. Reserve Fund Projection Update:** Mr. Craig Barkelar, Unemployment Insurance Division Administrator, updated the Council with regard to the current unemployment insurance fund projection, noting that even though the Department of Revenue economic indicators have not been updated since May, 2011, it is prudent to the extent possible to update the UI fund status. Based on the last projection, the department believed that the fund would enjoy a \$400 million surplus at the end of 2014; the new projection suggests that the fund will instead experience a \$19 million deficit at the end of 2014. While that figure is close to a break even position, it is not as healthy as the department had projected several months ago. Mr. Barkelar noted that the fund faced an increase in

benefits paid of over \$500 million over the last four years, although those expenditures were offset some by approximately \$49 million in federal unemployment compensation tax revenues and \$34 million in state UI tax revenue.

Mr. Barkelar updated the Council on the current amount of interest the State owes to the federal government and indicated that the interest debt is now \$29 million. The interest rate on the federal debt is expected to drop from 4% down to 3% on January 1, 2012. Mr. McHugh explained how the federal rate is set using the rate of return on short-term and long-term investments and the UI Trust Fund portfolio. He also noted that he expects the interest rate to drop from the current 4.1% to perhaps 3%.

#### **4. Legislators' Comments:**

Representative Chris Kapenga and Representative Evan Wynn addressed the Council.

Representative Kapenga thanked the Council for taking the time to listen to the ideas that he and a working group, including Representative Wynn, have put together over the course of 3 to 4 months. The group worked together with legislators and staff to examine trends and issues affecting UI. The group generally agreed that there are two kinds of unemployed workers: (1) those who truly are trying to find jobs, and (2) a small minority who do not want to work but want to stay on UI as long as possible. Participants in the group highlighted loopholes that have come to their attention. The group came up with some solutions. Representatives Kapenga and Wynn, on behalf of the working group, come before the Council to make sure the Council saw its recommendations and to get feedback from the Council. Representative Kapenga requested that if the Council wished to have additional input or make changes to the working group's proposal that it do so by October 6, 2011. Representative Kapenga noted that the time period for response is short due to the legislative cycle. Representatives Kapenga and Wynn provided copies to Council members of a three page document addressed to the Council from Representatives Kapenga and Wynn and Senator Frank Lasee which set forth eleven proposals for changes to the UI law. The document is attached to and incorporated into these minutes. Representative Kapenga reviewed each of the proposals with the Council.

Willful Misconduct: Employees who are discharged for willful misconduct are still able to collect UI. The group thinks it is a good idea to add a reasonable work rule provision. Representative Kapenga noted that he is aware the concept is not new to the Council and indicated that the legislature is looking at the idea.

ALJ Decision-making: Administrative Law Judges have significant leeway. There is an easy way to tighten up the decision-making authority by making a small change to s. 108.09(3)(b), adding "consistent with state and federal law." There is the cliché, "legislating from the bench," that has raised concerns.

Independent Job Searches: Representative Kapenga is aware that there has been a lot of discussion at the Council about job searches. The number of required job searches is not reasonable. There should be four searches each week from four separate employers. There needs to be more accountability. Claimants will be required to go online and document the jobs he or she applied for. In a perfect world, the claimant would also go back and add the status for each job search activity. Online documenting will help people track their searches and stay well organized. It will help them make sure they are doing everything they can to get employed. The department will have to build the online work searches into its technology, but it has received a grant.

"Quit to Follow" Repeal: 2009 Act 11 created a new provision that permits a person whose spouse decides to take a job in another city to quit his or her own job to follow the spouse to collect

unemployment benefits. This proposal ends the benefit for someone who voluntarily quits. The Fiscal Bureau gave an estimate of about \$5 million being paid out to these claimants.

UI Fraud Penalty: Currently there are no penalties for UI fraud. This provision will add a 15% penalty and a suspension of benefits. In addition, employers will no longer be charged for fraudulent overpayments to claimants. The working group received information indicating that there are \$68 million in fraud payment receivables.

Training Benefits: Currently claimants can receive 52 weeks of training benefits. New proposal will reduce the number of weeks to 26.

Eliminate Benefits for Claimants working 32 Hours Per Week or More: UI was created to provide a base level of support and not to supplement income. There are times when people have been working 40 hours per week and then have their hours reduced to 33 or 34. When that happens, the person should not get benefits. When a person goes down a few hours of work, that person should not be supplemented. If a person works 32 or more hours, there will be no benefits.

Reduce Interest Rate on Employer Contributions: Certain employers opt for contribution payment plans to spread out their payments. The department is now charging 1% per month or 12% a year for interest. This proposal gives employers a lighter load and brings the rate down to .5% or 6% annually, which is more in line with market rates. This reduction keeps the rate higher than the 4% the state is being charged by the federal government. It also helps struggling employers.

Prohibit Inmates from Collecting Benefits: Some prisoners have collected benefits while incarcerated. Group will amend so that prisoners cannot collect benefits. In other states, it is common practice that the conviction is considered willful misconduct. Representative Wynn has examples and the working group discussed the issue, which brought it to light.

Refusal Suitable Work: The statutes let someone turn down a job if it is not suitable under the statutes. The “suitable employment” clause is of concern. The working group decided to redefine what “suitable” is because the goal is to get people back to work. If they go out and apply for a job, it fits in with something they feel they can live with. If the person gets an offer and turns it down, then the person should lose his or her benefits. This is not like the kind of situation when a traveling salesman comes by and says, “I have got a job for you; come on the road.” This is not the kind of situation the group is talking about. Instead, the group is talking about a situation in which the person specifically applied for the job.

Inability to Contact Prospective Employee: It happens that prospective employers attempt to contact potential employees or staffing companies have people who have applied but the employer is unable to contact the person because the person won’t respond or the information provided was inaccurate. The employers may find that they cannot call or email the employees. Benefits would be discontinued if the prospective employee does not respond to the employer contact within a reasonable timeframe (if the employer calls DWD and reports it) or if someone willfully provides false contact information such as a bad email address or bad phone number or bad home address. People who do that are not really trying to get employed and the state will withhold benefits.

Representative Kapenga closed his outline of the proposal indicating that the working group wants to address these issues properly and chose to appear before the Council.

Mr. LaRocque thanked Representative Kapenga for sharing his views and asked for questions from the Council members.

Mr. Neuenfeldt indicated that it is important to consider in these proposals how not to hurt people. He also indicated that he was uncertain how someone who is incarcerated can be available for work. In response to Representative Kapenga's request for a response by the Council, Mr. Neuenfeldt stated that he would have to think about the proposals before being able to respond to them. The perspective of the proposals is coming from the employers' side, pointing out that many who are receiving benefits are suffering in this economy. He would like to receive copies of the comments employees and claimants have filed with the department online and emphasized that it is important to respect the view of claimants too. There are pockets of the state where claimants are having lots of problems in this economy.

Representative Kapenga stated that he respects Mr. Neuenfeldt's point and recognizes that there are different kinds of people, some of whom are legitimately looking for jobs. The working group does not want something that makes it really hard for someone legitimately looking for employment.

Representative Wynn noted that he represents Beloit, which has high unemployment. He added that he has gone to Job Centers in his district and is concerned about those looking for jobs and struggling, wanting to make sure the system works for them, but that some businesses got assessed over \$70,000 which is enough to pay one person since hiring a \$35,000 a year employee will cost close to \$70,000. When a business gets hit with the assessment, it could be one person they are not going to hire. The system needs to be adjusted so that it doesn't hurt deserving people, but also to take care of the deficit.

Representative Kapenga noted that many of the complaints about the UI system came from constituents who indicated that they had a friend or a niece or a daughter who was claiming benefits and something was not right about the situation. The comments did not just come from employers. Over 50% were from employers, but others emailed in and pointed out a problem, wanting it fixed.

Mr. Gustafson inquired of Representatives Kapenga and Wynn whether there is a difference with a Huber inmate who sleeps in the jail, but can otherwise leave during the day. Mr. Neuenfeldt noted that he understood that the person must be working to get Huber. Mr. LaRocque asked whether the proposed legislation is intended to cut off a Huber prisoner and prevent that person from getting UI.

Representative Wynn responded that there is a situation in which a person can be convicted of an ordinance violation or a misdemeanor occurring or related to the workplace and still receive UI benefits. He also indicated that when he is out talking to the towns, the questions focus on roads and how to repair them, and when he is out talking to employers and other people, they want to talk about unemployment.

Mr. LaRocque offered the department's perspective based on the day to day experience in the program, also indicating that the dialogue helps the parties to come closer together. As a general matter the law provides that incarceration resulting from acts connected with employment will typically result in a misconduct disqualification. The legislators' constituents may see something else, and the department would like to hear about those instances. The department will not simply defend every decision it issues, but will critique and adjust the operation and sometimes the decision itself. Not all administrative law judges are precisely consistent over time with other administrative law judges and with the law. There are some cases that, when examined closely, point the way to policy or administrative changes.

Representative Wynn responded that his group has been working with the department and that the department has given some advice. He noted that DWD assisted in the proposal to end loopholes for the incarcerated.

Mr. Buchen inquired how a person in jail could receive UI benefits.

Mr. LaRocque noted that department staff tend to hear most often about fraud committed by incarcerated individuals. He was unable to think of an example in which inmates received benefits, other than in the Huber setting, where the claimant has work release privileges. In that case an incarcerated person may receive benefits. Some inmates are permitted to work in private industry and that there have been some complaints when claims are paid out based on these wages, which are considered base period wages. The claim is not made while incarcerated necessarily but the earnings occurred while incarcerated.

Ms. Yunk pointed out that an individual may be entitled to Huber release based upon various school, family care, and home health issues. The purpose of the release is to benefit the community.

Mr. LaRocque inquired of Mr. Lutfi Shahrani whether the inmate must have Huber *for work purposes* in order to receive UI benefits. Mr. Shahrani indicated that the inmate must have permission to leave the facility to look for and perform work; the inmate must maintain availability in the labor market. Being in jail alone is not disqualifying, but the work release privileges must permit the inmate to seek and accept work. Those not available to work because of child care or other responsibilities are not eligible for benefits.

Mr. Lump offered that his employers are much more interested in the assessments. Many employers were surprised by the assessments even though they had received notice. They still have to write the check. He noted the employers blame the Council for it because the employers figure that their tax money is being misused or the assessment should not have been made in the first place.

Mr. Lump also observed that the work search requirement is a two-sided coin and noted that the Council has made changes in it from time to time. He also noted that the one thing that has rankled small business people (whom he represents) is that they do not like having to interview or take applications from those who are not interested in taking the job and have no intention of taking the job. Increasing the work search requirement from 2 to 4 searches, while it makes sense, can be an irritant and more work for the employers. The unemployed are in tough shape, but many believe that the unemployed are just going through job searches because the law requires it. Some people don't take the job and never intended to take the job. There is also some false hope and other sides to the story. The solution offered in proposal #10 addresses part of it.

Representative Kapenga stated that he believes the proposal came about because there may be a situation when someone applies at McDonald's when the person was never interested in the job because it was not suitable, and wasted everyone's time.

Mr. Lump observed that someone only interested in taking a \$30,000 or \$35,000 or \$50,000 job should maybe just apply for those.

Ms. Yunk noted that one thing that needs to be made clear is that there aren't many \$30,000 and \$40,000 jobs to apply for out there. Someone may apply at McDonald's and get paid \$8 an hour, but have childcare costs that cost more money, and then end up losing. She emphasized that these issues cannot be dumbed down and simplified, for they are very complex. With regard to Huber, millions of dollars have been spent to rehabilitate people. People need to be very conscious of simplistic and anecdotal solution to problems.

Mr. Buchen noted that there are differing points of views and that a lot of how one looks at it turns on philosophical difference in personal responsibility. He noted that programs are nice, but they cannot absolve individuals of personal responsibility.

Ms. Yunk responded that she has very strong feelings about the notion of personal responsibility, believing that everyone needs to take public and personal responsibility. She stated that there is an equal moral and ethical obligation placed on those in positions of power and in the position of employing people.

Mr. Buchen observed that the legislators' tenth proposal dealing with suitable work implicated a federal overlay. Mr. LaRocque agreed that the federal issue raised was an important element.

Representative Kapenga noted that the group has to continue to look at the federal side of the proposals and had also noted the potential federal implication of that proposal. He also added that the group will continue to investigate, as several proposals had been revised due to federal standards.

Mr. Buchen observed that the Council has attempted to make a run at revising the suitable work provision in the past, but has bumped up against federal standards.

Mr. LaRocque explained that the department cannot disqualify a claimant when the job offered is substantially less favorable, as that term is defined in the statute. The department applies a 25<sup>th</sup> percentile cut-off. A claimant is permitted to try this job and quit, which is a means of encouraging the claimant to give the job a try. Other restrictions are not federal.

Mr. LaRocque explained that there is a limit on what job can be refused, referring to "good cause." He indicated that there are various issues and circumstances and invited submission of a particular case or facts. He also stressed that the department enforcement of the issue is separate from the federal standards since the state has a good cause limit.

Representative Kapenga noted that in the proposal the decision of what is acceptable or not acceptable is left in the hands of the person applying, not the government because if the person who is applying cannot live on it, the person will not apply. The proposal puts the decision back in the hands of the person applying because perhaps the person wants to change the way he or she is living, as some people have. The person makes the decision, not the legislators or the department.

Mr. Gustafson inquired of Representative Kapenga whether the proposal has a bright-line test of what happens when someone applies for a job, when the wages are not necessarily posted in the paper, and realizes that the job is not appropriate, and when the triggers apply.

Representative Kapenga responded that the inquiry is: What would a reasonable person do? He explained that a reasonable person wouldn't apply for a \$7 an hour job when he or she was working for \$45.

Mr. Gustafson pointed out that the wage could be a surprise and that he had seen instances in which it was a surprise.

Representative Kapenga noted that once the department's software was up and running, the claimant would document that he or she applied. He also noted that there is still an onus on employers and that he did not want the government enforcing all of the proposal because the government cannot fix every angle they are looking at.

Mr. Neuenfeldt observed that it was clear the legislators had done a lot of work on the proposals and assumed by the deadline set that the legislators are prepared to introduce the legislation in the current session.

Representative Kapenga responded that the group wants to move forward with legislation this fall.

Mr. Gotzler noted that he has been hearing that staffing companies have experienced difficulty tracking down former employees who are getting benefits and to whom the staffing company wants to offer a job. He inquired whether the department has something in place today that requires some response time for UI to maintain benefits.

Mr. LaRocque explained the general approach on contact: If there is no assurance of a recall to work, the employee has no obligation to update a changed address. This is what some agencies may be experiencing, as they want an update even if they have not offered an assurance. Others may have given false or misleading information, as Representatives Kapenga and Wynn indicated.

Mr. Shahrani further explained that if the employment relationship ends with no expectation of recall, the claimant is free to move and not update the contact information. If the expectation is that there will be a recall and that expectation is made clear at the time of separation, the employee is required to update contact information. The department has “blocking” prohibitions. “Blocking” is making efforts to keep an offer from being communicated.

Mr. Gotzler inquired whether the blocking prohibition is in the statutes.

Mr. LaRocque stated that under the temporary help provision in the administrative code, ch. DWD 133, the employer has a limited time to offer a new assignment or is deemed to have discharged the employee. An employee may be deemed to have quit if he or she does not accept an assignment. [The statute does not explicitly disqualify a claimant for actions taken to block a job offer, but the department reads the statute to disqualify as a type of job refusal if the work that would be offered would be suitable and if there would be no basis to excuse the refusal.]

Mr. Buchen inquired whether there is a way for the employer to get information from the UI Division. Mr. Gotzler joined in the inquiry.

Mr. LaRocque responded that he believes the employer would have the right to look at the address in the claimant’s account if payment is being made from that employer’s account, but that he would have to look into that more closely.

Mr. Gotzler inquired of Representative Kapenga whether his suggestion with proposal number 11 is to change the requirement and require the employee to update the information and maintain current contact information.

Representative Kapenga responded that the working group had not discussed an update requirement, but that his understanding is that under current law if the employer touches base to offer a job, that would fall under suitable employment.

Mr. LaRocque noted that his understanding of Representative Kapenga’s proposal, based on the example of false information provided, is that it addresses “blocking,” which is currently implied in the statutes and treated as a refusal of suitable work.

Ms. Yunk spoke to the need for sensitivity, observing that there are people who have been unemployed long-term and often lose their residence, particularly in urban settings. She noted that the individuals may have lost their cell phones and are required then to use family's or a friend's phone. She stressed that it is not as though there is a herd of people trying to evade UI rules. Many of these individuals are facing significant issues in their personal lives. She urged the Council to recognize this.

Representative Kapenga noted that if people are regularly following up, they are in touch with the department on a weekly basis. He also notes that when an employer has a job to offer, there must be a common sense method—and this may not be it—to contact the employee. Some employers have jobs but cannot contact the employee. The working group wants to get people back to work.

Mr. Buchen offered that 95% of the unemployed claimants are in tough shape, but that there are people on both sides who abuse the system - estimate about 10,000 people at \$300 per week or \$3 million. That's something worth worrying about. Maybe some of these proposals and our proposal are not the right answer, but they cannot be dismissed out of hand. We must figure out how to reduce the 5% figure because this is real money. It is costing lots of money and impeding growth in the economy to some extent.

Mr. Gustafson noted that dollars paid to the undeserving are then not available to the deserving.

Representative Kapenga explained that his group had discussed this and that just because someone's cell phone gets cut off, they do not want to cut off benefits. He noted claimants have an address, a physical address or email address and a phone. If someone is looking for a job, the department will know in a week or so if it has changed and still have ways to touch base. If all three ways to communicate go away and the claimant does not contact the department or the employer, then these people are not really looking for a job.

Mr. Neuenfeldt inquired what amount of DWD staffing would be required to deal with the amount of sensitive case management DWD has to do.

Andrea Reid, the Deputy UI Division Administrator, responded that claimants have the capability to do work search online, but that not everyone does that and that not everyone has a computer. The department can create a rule requiring claimants to file online and require claimants to go somewhere if they don't have a computer. The department does not have the kind of capability right now in the application to handle what is being suggested. The department will have to design an application that is more sophisticated than it currently has. The department does not currently have the staff to examine all of the claimed work searches.

Mr. Barkelar added that he is uncertain if the department can share updated information with the employer or potential employer, but that the issue is being addressed this week through a subpoena, which is not efficient. The department will need to look at the issue. Timing will be important. There is currently a huge backlog in adjudication. Mr. Barkelar noted that anecdotes tend to stay a long time, but it is sometimes difficult to estimate the size of the population affected.

Mr. LaRocque inquired of Ms. Reid whether she was focusing in her prior response on work search and what it would require to track changes.

Ms. Reid responded that the department has a record of claimant phone numbers, but they may not be updated. The department also has claimant addresses, but if the claimant moves and has mail forwarded the department may not have the current address. The department can take steps to prohibit forwarding.

The department would have to make changes in its system, referring to checks, in order to maintain current information.

Ms. Yunk asked what percentage of claimants use direct deposit for benefit payments.

Mr. McHugh responded that about 50% of the benefit dollars are deposited via direct deposit, but that he is uncertain what the percentage of claimants using direct deposit is.

Mr. Barkelar pointed out that the department is moving toward debit cards, which will eliminate the need for processing of checks.

Mr. Buchen inquired whether the claimants are required to talk to someone at the department every week. Mr. LaRocque responded that the claimant is not required to speak to someone at the department each week, as the system is automated.

Ms. Yunk asked whether it is legitimate if a claimant has no transportation to refuse employment. Ms. Yunk explained that there are substantial changes to the Milwaukee bus system underway that will affect large numbers of people and deprive them of the opportunity to travel to more distant places for employment.

Mr. Shahrani responded that the claimants are expected to have transportation and that there are plenty of jobs in Milwaukee that would enable Milwaukee residents to be considered available for employment. In other more rural places, there is a higher expectation that a claimant will commute further.

Ms. Yunk explained that the Milwaukee bus changes will be an issue in the future because some routes are being radically eliminated and will prevent people from getting from Point A to B on a regular basis. She noted that it is an issue that can be discussed and considered later.

Mr. LaRocque noted that the give and take among the Council members and the legislators present had been good, and expressed his appreciation for the various views and proposed solutions offered.

Representative Mike Endsley requested permission to address the Council to provide his personal perspective after having been recently unemployed long-term. He explained that he lost his job in Sheboygan when the company for which he was working left town, resulting in the loss of 500 jobs. He had never been on UI and was astounded by what was required of him in order to receive benefits. At 6:00 on Monday mornings he went to various websites and within five minutes had completed everything that was required of him to obtain benefits. Representative Endsley related that he then decided to run for the Legislature and had some 13,000 contacts with people in his district. He found many people at home in the afternoon and discovered, upon engaging in dialogue with them, that many had the same story as he did. Many of the individuals indicated that they had been unemployed for a year. When Representative Endsley asked whether they had had any offers, they initially said they had not, and then modified their answer to say that they had been making \$20 an hour and had only received offers of \$12 or \$13 an hour. They indicated that they had decided they would just “ride it out” after “doing the math.” Representative Endsley observed that there are significant numbers of claimants who are abusing the system, and that his observation should not be viewed as an indication that he does not care about people, because he does care about the people who need help. When he lost his job, he made every effort to maintain his family’s lifestyle, including selling his home. He stated that people who are abusing the system are absorbing the resources that other people need.

Ms. Yunk responded that “abuse” must be defined and noted it is worrisome when public policy is made based upon 5% of the claimant population. She indicated that many people tell stories about problems and that real facts and public hearings, along with demonstrable measurement are required.

Representative Endsley stated his belief in personal responsibility and indicated that if people cannot get to the places they need to be, they must have other issues going on.

Mr. McGowan noted recent press articles discussing the decline in income and the increase in poverty. He read a portion of a Milwaukee Journal Sentinel article dated September 22, 2011, describing the experiences of a woman named Wendy Cole and indicated that the story put a face and a story to the matters the UIAC is discussing. [Article found at <http://www.jsonline.com/news/wisconsin/130325653.html> ]

Representative Kapenga responded that none of his group’s proposals would hurt someone like Ms. Cole.

Mr. McGowan indicated that he understood that, but that while 5% may be abusers of the UI system, 95% are like Ms. Cole. He stressed that we must be very careful that we do not hurt these people, especially when it comes to unemployed workers talking about not taking their medications. Mr. McGowan asked whether the economic market will kill someone like her.

Ms. Yunk noted that the term “personal responsibility” has become a new buzz word.

Ms. Stephanie Kundert, office of Representative Joel Kleefisch, indicated Representative Kleefisch was frustrated when he had business owners who are paying into the UI system tell him stories of abuses within the system. Some of these business owners have indicated that for what they are paying workers to be on UI they could be paying them to gain skills to take to work there or take to a new job. Ms. Kundert discussed a Florida bill, HB 7005 [text and legislative summary at: <http://www.flsenate.gov/Session/Bill/2011/7005> ]. Mr. LaRocque distributed prepared summaries of the Florida legislation to UIAC members. Ms. Kundert explained that the Florida legislation set a sliding scale of duration of UI benefits determined by the unemployment rate at the time the claim begins, noting that the duration will range from 12 to 23 weeks. She noted that Florida previously granted benefits for up to 26 weeks and expects the Reserve fund to save \$103 million and that employers will save \$32.10 per worker when the law takes effect. She indicated that Representative Kleefisch’s office still needs to do more investigation, and that Representative Kleefisch decided to bring the idea to the UIAC first. Ms. Kundert inquired what her office could do to make this legislation work in Wisconsin.

Mr. Buchen inquired whether the Florida legislation Ms. Kundert described has passed. Ms. Kundert responded that the legislation has passed.

Mr. LaRocque inquired whether Senator Lasee’s representative was in attendance and received no response.

Motion (Mr. Gotzler), second (Ms. Yunk) to meet in closed session pursuant to section 19.85(1)(ee) of the Wisconsin Statutes for the purpose of discussing possible changes to Chapter 108, the Unemployment Insurance law and rules. Ayes 9, noes 0. At 11:00 a.m. the Council was in closed session.

**5. Unemployment Law Changes Proposals:** At 2:10 p.m. the Council reconvened in open session. All nine members present earlier were present again.

Motion by Ms. Yunk, seconded by Mr. Buchen, that the Council forward a joint Management and Labor legislative proposal for drafting and presentation to the Legislature for consideration. The joint proposal includes the following department proposals: (a) Redetermination of Subject Successor Tax Contribution Rates; (b) Choice of Employer; (c) Amended Employer Assessment for Interest Payment; and (d) Authorize Additional Means of Borrowing. The joint proposal includes the following Management proposals: (a) Disqualify Claimant for Full-Time (32 Hours) of Work or Compensation; (b) Modify Partial Week Benefit Eligibility; (c) Ineligibility for Failure to Perform Work Search after Non-Fraudulent Misstatements; (d) Repeal Forfeiture for Fraud and Replace with Increased Ineligibility and Percentage Penalty; (e) Extend U.S. Treasury Program (TOP) to Recovery of Non-Fraud Overpayments. The joint proposal includes the following Labor proposal: Repeal Drug Testing Provision and Employer Reporting Requirement.

Mr. LaRocque requested discussion.

Mr. Buchen stated that he remained concerned about work rule violations and that the *Boynton* case does not reach all situations. He indicated his intention to continue to work on the issue, which was included in the Management proposals but not accepted by the Council for submission to the Legislature, and his hope that the Council would find a way to work forward toward a reasonable resolution in the future.

Mr. LaRocque inquired whether the Council wanted to address the legislation brought before it earlier by Representative Mark Honadel.

Mr. Buchen suggested that the Council indicate that it is conceptually in agreement with Representative Honadel's proposal.

Mr. LaRocque indicated that the Representative Honadel proposal will be a separate piece of legislation, but that the minutes will indicate the Council's agreement with the concept the legislation presents.

Mr. Neuenfeldt stated that the Council is doing its best to address the issues and to deal with them in the context of the current economy. The Council is attempting to be responsive and responsible. He stressed the need to consider those who have recently lost income.

Mr. Buchen responded that with regard to the work rule violation proposal, his intention is to work within the Council and not to invite others to work on the measure outside of the Council process.

Mr. Lump inquired what method of communication would be used to advise Representative Honadel of the Council's agreement with his concept and intent to work with him.

Mr. Buchen stated he had talked with Representative Honadel and indicated that the department might work with the employment training people and that the employment training division would oversee the necessary approvals for the training program.

Mr. Barkelar indicated that Representative Honadel expressed a willingness to work with the Council, and that he would be meeting with Representative Honadel and others to discuss the proposed program.

Mr. Neuenfeldt stated it is also important to determine how the claimants are worked with in terms of the training aspect of the program.

Mr. LaRocque expressed his willingness to send a formal letter to Representative Honadel, which Mr. LaRocque would draft [The letter was subsequently drafted and signed by Council members Buchen and Neuenfeldt expressing support for the proposal by Rep. Honadel.]

Mr. LaRocque asked for a vote on the pending motion for ten law changes to the Unemployment Insurance law chapter. The motion passed: Ayes 9; noes 0.

A motion (Mr. McGowan) for a Council resolution indicating unanimous Council support for the concept presented in Representative Honadel's proposal carried 9-0.

Mr. Gustafson inquired whether the Council would respond to Representative Kapenga's request for a Council response.

Mr. Neuenfeldt responded that it was virtually impossible for the Council to respond collectively to the proposals within the time frame offered.

Mr. Buchen suggested that the Council prepare a letter indicating that it appreciates Representative Kapenga's input and advise him that the Council has incorporated several similar items upon which it has reached agreement. He also suggested that the letter advise Representative Kapenga that the Council looks forward to working with him and his group in the future.

Mr. LaRocque advised the Council that he would draft the letter. [The letter was subsequently drafted and signed by Council members Buchen and Neuenfeldt.]

Mr. Neuenfeldt and Mr. Buchen added that due to the time frame offered, the Council cannot complete its review and consideration of the proposals.

Mr. LaRocque indicated that he will circulate the letters, and asked that the Council members quickly offer any comments to the draft legislative bill. He indicated he anticipated smooth sailing with draft bill.

**6. Correspondence:** No constituent correspondence was discussed.

**7. Future Meetings:** No date was set for the next Council meeting.

**8. Other Business**

Motion to Adjourn (Ms. Yunk), second (Mr. Lump). Ayes 9; noes 0. Meeting is adjourned at approximately 2:25 p.m.