



# Unemployment Insurance Advisory Committee

## Meeting details

**Date:** Thursday, November 12, 2020

**Time:** 10:00 a.m. to 12:00 p.m.

**Location:** Zoom

### Committee members present

- Robert Battles
- Julia Gorton
- Tammie Hetrick
- Sybill Hyppolite
- Kevin Perkey
- Cindy Richardson
- Josh Swanson
- Jerry VanderWood
- Brenda Wiest

### Committee members absent

### ESD staff

- Joy Adams
- Sara Crosby
- Ashlee Delaney
- Nick Demerice
- Stasha Espinosa
- Wendy Goldmark
- Matthew Klein
- Scott Michael
- Jeff Robinson
- Brenda Westfall
- Dan Zeitlin

## Summary

### Meeting Recorded and Broadcast on TVW

This meeting was recorded and is available at <https://esd.wa.gov/newsroom/UIAC/recordings>.

This meeting was also livestreamed by TVW and the broadcast can be found at

<https://www.tvw.org/watch/?clientID=9375922947&eventID=2020111051>

### Welcome and Opening Remarks

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked Wendy Goldmark to take roll call. All committee members were present.

### Agenda

Dan Zeitlin reviewed the meeting agenda and asked if anyone had any questions. (See Addendum I.)

### Meeting Minutes

Dan Zeitlin requested that everyone review the meeting minutes for October 28, 2020 and provide their feedback. Julia Gorton made a motion to approve the minutes for October 28, 2020 and Kevin Perkey seconded the motion. Dan asked for all members in favor to say, “Aye”. All members responded, “Aye”. Dan asked members that disapprove to say, “Nay”. No one responded. The October 28, 2020 meeting minutes were approved.

### UI Program Update

Dan Zeitlin informed the committee that:

- On November 9, State legislative leadership extended the 3 Governor Proclamations through December 7 related to unemployment insurance:
- Proclamation [20-21](#): Suspends state law requiring an unpaid waiting week before claimants receive unemployment benefits.
- Proclamation [20-58](#): Suspends state law requiring Employment Security to charge employers for Shared Work benefits.
- ESD supports extending these proclamations through the end of the calendar year as both waiting week and Shared Work benefits are being financed by the federal government through the end of the year.
- State Legislative leadership also extended Proclamation [20-30](#), which suspends state law requiring unemployment claimants, including those claiming Extended Benefits, to actively seek work.
- ESD continues to advocate for extensions at the federal level of important unemployment support set to expire at the end of the year.
  - Pandemic Unemployment Assistance and Pandemic Emergency Unemployment Compensation.
  - Interest free federal trust fund loans.
  - Federal financing of the waiting week, Shared Work, Extended Benefits and half the cost of benefits for “reimbursable” employers.

**UI Tax and Trust Fund Discussion**

Dan Zeitlin gave a slide presentation on [UI Tax Policy Options](#) and led a discussion that focused on the following:

## UI Trust Fund Balance –

- \$2,083,044,777 on 11/06/2020
- September 2020 Baseline Forecast

## Social Tax Policy –

- Multi-year social tax relief
  - 2021-2025 Policy Options: Social and Solvency Tax
- Individual employer impacts
- Tax Policy Options: Lowering the social tax/increasing the taxable wage base
- Federal borrowing
  - Loans are currently interest free through 2020 with an extension by Congress and the Administration needed to provide interest free loans in 2021.
  - Loans from federal government accrue interest daily.
  - Annual interest rate charged for the year is the same rate as what the trust fund earned during the fourth quarter of the previous year (Per [Treasury Direct](#), the 3rd quarter 2020 rate was 2.2783%).
  - Cannot use trust fund to pay interest; can only use trust fund to pay principal.
  - Per [RCW 50.16.070](#), ESD can charge a separate tax of up to .15% on employers for any quarter in which there will be an interest-accruing federal advance at the end of the quarter.
  - [20 C.F.R. § 606.32\(b\)](#): To qualify for an interest-free “cash flow” loan in 2021, Washington must:
    - Pay all borrowed money back by September 30, 2021;
    - Not borrow again in October, November, and December 2021; AND
    - The ratio of taxes paid divided by total wages reported must be greater than or equal to 80% of the previous year’s ratio; OR
    - The ratio of taxes paid by taxable employers divided by total wages reported must be greater than or equal to 75% of the 5-year average ratio of benefits paid divided by total wages.

## Experience Rate Tax Policy –

- HB 2965 COVID Unemployment Account Update
  - Applications Approved
  - Industry Breakdown
  - Benefit Charge Offsets
  - Increased Funding
- Voluntary Contributions Program
  - Federal Law: Per [26 U.S.C. § 3303\(d\)](#), states do not violate experience tax rate principles “if they permit voluntary contributions to be used in the computation of

- reduced rates” so long as the contributions are made within 120 days of the beginning of the year (April 29/30).
- Voluntary Contributions Program (VCP): Authorized in state statute, [RCW 50.29.026](#), the VCP allows employers to spend their own money to offset benefit charges to receive a lower tax rate for the next four years.
  - State limitations:
    - Employers must pay a 10% surcharge on the benefit charges they want to offset.
    - Employers must have jumped 12 rate classes or more over the previous year.
    - Employers must pay enough money to drop at least 4 rate classes.
    - Money used to offset benefits charges must be paid by February 15.
  - Potential Amendments
    - Surcharge: Employers pay a 10% surcharge for benefits they want to buy down. Potential Amendment: Eliminate the surcharge to lower the cost to employers.
    - Rate Class: Only employers that saw an increase of 12 rate classes or more from the previous year can use the program. Potential Amendment: Allow employers that saw an increase of 8 rate classes or more to use the program.
    - Buy Down Amount: Employers must buy down enough benefit charges to reduce their tax rate by at least 4 rate classes. Potential Amendment: Require a reduction of at least 2 rate classes so businesses can pay less up front to reduce their rate.
    - Payment Deadline: Payments are due February 15. Potential Amendment: Extend deadline to March 31 as allowed under federal law.
  - 2021 Industry Breakdown by Numbers
  - 2021 Industry Breakdown by Percentage
  - Federal Conformity Considerations
    - Experience charging required to maintain federal UI tax (FUTA) credit:
      - WA employers currently pay .6% FUTA tax. Per USDOL guidance, [UIPL 29-83](#), the FUTA tax rate cannot be lowered below 5.40% unless the calculation of the lower tax rate is based on that employer’s experience with unemployment claims.
    - Benefit noncharging permissible if one or both of the following conditions are met:
      - The worker’s unemployment is the result of the worker’s own action; or
      - The worker’s unemployment is beyond the direct or indirect control of the employer, except under circumstances where the unemployment is due to general economic, trade, or other business reasons (e.g. seasonal layoffs).
    - All businesses must be treated equally:

- [UIPL 24-77](#): Oregon’s statute gave special benefit charge relief to employers in the food processing industry. USDOL guidance affirmed that all benefits and all employers must be charged by the same charging rule over the same time period.
- COVID-19 flexibilities:
  - [The Families First Coronavirus Response Act Section 4102\(b\)](#): States are still in conformity with federal law if they change their laws and policies with respect to employment experience rating “on an emergency temporary basis as needed to respond to the spread of COVID-19.”

### Action Items

- 10:19AM: Request for chart from DOL that shows how this number compares to other states – *Link to taxable wage base comparison chart:*  
<https://oui.doleta.gov/unemploy/pdf/uilawcompar/2019/financing.pdf> (pages 4-6)
- 11:39 AM: Request for more information on the anticipated impacts and scenarios of significant increase of use of the voluntary contribution program –
- 11:48 AM: Regarding interest payments on federal loans – Request for creating an example with \$550M loan with quarterly interest charges and cost per employee, quarter by quarter for a couple years – *Link to \$550million example:* [\\$550million UI Trust Fund Loan Solvency Interest Tax Estimate](#)

### Resources

- [UI Trust Fund Forecast September 2020](#) (pages 7 and 8)
- [Rate Class Comparisons Table](#)
- [UI Trust Fund Loan Solvency Interest Tax Estimator](#)

### Agenda Items for Next Meetings

- UI legislative proposals, rulemaking and work search requirements.

### Public Comments

- Anne Paxton, ULP

### Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 11:57 a.m.

### Next meeting

The next Unemployment Insurance Advisory Committee meeting is on Wednesday, November 18, 2020 from 10:00 am to 12:00 pm via Zoom.

Addendum I

Agenda

Unemployment Insurance Advisory Committee (UIAC)

Thursday, November 12, 2020 | 10:00 am - 12:00 pm | Via Zoom

Agenda Items

Time	Topic
10:00 am	Welcome from Dan Zeitlin, Director of Policy, Data, Performance & Integrity (PDPI) Division, Employment Security Department (ESD) <ul style="list-style-type: none"> <li>• Agenda Review</li> </ul>
10:05 am	Approval of October 28, 2020 Meeting Minutes
10:10 am	UI Program Update <ul style="list-style-type: none"> <li>• Dan Zeitlin, Director, ESD</li> </ul>
10:20 am	UI Tax and Trust Fund Discussion <ul style="list-style-type: none"> <li>• Dan Zeitlin, Director, ESD</li> <li>• Scott Michael, Legal Appeals and Rulemaking Manager, ESD</li> <li>• Jeff Robinson, UI Research and Forecasting Manager, ESD</li> <li>• Matthew Klein, Operations Research Specialist, ESD</li> <li>• Brenda Westfall, Product Manager ESD</li> </ul>
11:45 am	Next Agenda Discussion
11:50 am	Public Comments
12:00 pm	Adjourn

For more information, please visit the UIAC website at <https://esd.wa.gov/newsroom/UIAC>

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