



Unemployment Insurance Advisory Committee

Meeting details

Date: Tuesday, August 30, 2022

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

Location: Zoom

Committee members present

- Robert Battles
- Julia Gorton
- Anne Paxton
- Cindy Richardson
- Josh Swanson
- Jerry VanderWood
- Brenda Wiest
- Courtney Williams

Committee members absent

- William Westmoreland

ESD staff

- Joy Adams
- Joshua Dye
- Wendy Goldmark
- Caitlyn Jekel
- Matt Klein
- Matt LaPalm
- Brendon Tukey
- Natividad Valdez
- Jill Will
- Dan Zeitlin

Summary

Meeting Recorded

This meeting was [recorded](#). This meeting was also [livestreamed](#) by TVW.

Welcome and Opening Remarks

Employment Security Department (ESD) Government Relations Director, Caitlyn Jekel, welcomed everyone and asked Wendy Goldmark to take roll call. All committee members were present, except William Westmoreland.

Agenda

Caitlyn opened the meeting discussion with a slide presentation and highlighted the below topics to be covered. (See Addendum I.)

- Introductions
- Agency Strategic Plan
- UIAC Schedule, OPMA Requirements and Charter
- UI Agency Request Legislation and Rulemaking
- Minimum Weekly Benefit Amount Report
- Future Topics
- Meeting Minutes Approval (3/25 meeting)
- Public Comment

Introductions

Caitlyn Jekel asked each new and returning committee member to introduce themselves, state their organization and role, and to share what their interest is in being on this committee.

Agency Strategic Plan

Caitlyn Jekel reviewed the four-year strategic plan.

2022-26

FOUR YEAR STRATEGIC PLAN

Employee engagement strategies

Goal: A culture of belonging, learning and growth where we are all valued, everyone matters and each of us can lead.

- Enhance our culture of equity, diversity and inclusion by developing cultural competency for every employee.
- Increase diverse representation in our leadership by improving retention and embedding our goals and values into hiring and promotional processes.
- Improve the experience of team members from historically marginalized communities by using employee engagement data and direct input from employees.

Organizational excellence strategies

Goal: Our most complex processes are made simple and easy for our staff and customers.

- Get more of the right things done by doing fewer things at once.
- Use consistent technology and data platforms across our agency.
- Create empowered cross-functional teams with the capacity to deliver our prioritized work.

Customer service strategies

Goal: People receive accessible, safe and equitable services at the right time, in the way they need it.

- Create an integrated experience for customers when interacting with ESD.
- Help connect more people to our services through a network of community partners.
- Improve equitable outcomes for customers by listening to and learning from people who face barriers to receiving our services.

NOW TOGETHER. ENGAGING EQUITY

UIAC Meeting Schedule

Schedule Proposal

- Cadence/Time: Two hours once a month for the remainder of the calendar year.
- Location: Virtual via Zoom with physical location at ESD.
- Future: Committee will determine 2023 cadence/time and location.

Caitlyn Jekel handed the meeting over to Wendy Goldmark to propose a 2022 meeting cadence. The committee unanimously committed to the following meeting schedule:

- September 27 from 10:00 a.m. to noon
- October 19 from 10:00 a.m. to noon
- November 9 from 10:00 a.m. to noon
- December 14 from 10:00 a.m. to noon

Wendy Goldmark handed the meeting over to Dan Zeitlin to continue the discussion.

OPMA Requirements

ESHB 1329 went into effect on March 24, 2022:

- Meetings held in a physical location with telephonic or video access options for the public encouraged.
- Members of the governing body authorized to attend remotely.

- In a state of emergency, agencies may still have an option of conducting remote-only meetings, but they would need to document reasons why the emergency prevents it from meeting in-person, for public safety reasons.
- Encourages, but does not require, body to make an audio or video recording of regular meetings and make them available online for a minimum of six months.
- Requirement that the announced purpose of an executive session must be entered into the meeting minutes.

OPMA Training

- Every member of the governing body of a public agency must complete training on the requirements of the OPMA no later than 90 days after the date the member takes the oath of office (if required) or otherwise assumes their duties as a public official. [RCW 42.30.205\(1\)](#)
- Every member of the governing body must complete training at intervals of no more than four years as long as the individual is a member of the governing body. [RCW 42.30.205\(2\)](#)
- The Office of the Attorney General's website offers online training that complies with the Open Government Trainings Act.
- UIAC can host the Attorney General's office for a training.

Dan Zeitlin asked for a show of hands for those committee members that have not taken OPMA training in the last four years or ever. Due to the number of committee members requiring OPMA training, it was decided that ESD would provide the training at the September 27 meeting.

Charter Development

Dan Zeitlin referenced the UIAC Charter DRAFT that was distributed to committee members, starting with a discussion on charter development. (See Addendum II.)

[RCW 50.12.200\(1\):](#)

State advisory council—Committees and councils.

(1) The commissioner shall appoint a state advisory council composed of not more than nine men and women, of which three shall be representatives of employers, three shall be representatives of employees, and three shall be representatives of the general public. Such council shall aid the commissioner in formulating policies and discussing problems related to the administration of this title and of assuring impartiality and freedom from political influence in the solution of such problems. The council shall serve without compensation. The commissioner may also appoint committees, and industrial or other special councils, to perform appropriate services. Advisory councilmembers shall be reimbursed for travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Contents

- Purpose
- Goals
- Membership: Appointment, Terms and Replacement
- Expectations: Communications and Compensation
- Meetings: Cadence, proxy, quorum, discussion and process

Dan Zeitlin provided clarity of roles for new and current voting members, as well as the participant members listed below:

Employee Representatives:

Cindy Richardson, UNITE HERE Local 8 (voting member)

Josh Swanson, Operating Engineers 302 (voting member)

Brenda Wiest, Teamsters 117 (voting member)

Joe Kendo, Washington State Labor Council (participant)

Employer Representatives:

Bob Battles, Association of Washington Business (voting member)

Julia Gorton, Washington Hospitality Association (voting member)

Jerry VanderWood, Association of General Contractors (voting member)

Tammie Hetrick, Washington Food Industry Association (participant)

General Public Representatives:

William Westmoreland, Pacific Mountain Workforce Development Council (voting member)

Anne Paxton, Unemployment Law Project (voting member)

Courtney Williams, Community Employment Alliance (voting member)

TBD, Northwest Justice Project (participant)

Charter Draft: Purpose

The Unemployment Insurance Advisory Committee (UIAC) shall aid the commissioner in formulating policies and discussing problems related to the administration of the Unemployment Insurance (UI) program and assuring impartiality and freedom from political influence in the solution of such problems: RCW 50.12.200.

In doing so, the Committee will provide comment on unemployment insurance policy, operations, and performance management, as well as other issues the Committee determines to require its consideration. The Committee will provide a forum for listening to concerns of stakeholders and seeking input to improve the program to best serve workers and business.

Charter Draft: Goals

The UI program provides critical financial support for workers while bolstering the broader economy. Identifying avenues to improve the UI program so that it better supports workers and businesses, including in times of economic crisis, is a vital endeavor.

The Committee will play a critical role in considering and providing recommendations to the Employment Security Department (ESD) to aid the department in meeting two agency strategic goals:

- Our most complex processes (pertaining to the UI program) are made simple and easy for staff and customers (workers and employers).
- People receive accessible, safe, and equitable services (UI) at the right time in the way they need it.

In aiding ESD in meeting these goals, the Committee will seek to advise the department on improvements to the unemployment benefits and tax system by deliberating and providing recommendations on:

- Policy matters, including changes to state law and rules.
- Operational issues, including communications and direct interactions with customers.
- Performance management, including provide quality and timely benefits and tax services.

The Committee also maintains goals to:

- Foster community and stakeholder engagement in considering improvements.
- Commit to timely, robust, and open communication to the public, and to engaged stakeholder communities.

Charter Draft: Discussion

The Chair may, with consent from a majority of Committee members, allow individuals that do not serve on the Committee to participate in Committee discussions. Such individuals shall not vote on matters in front of the Committee members. The public shall have the opportunity to provide comment at all Committee meetings.

***Bob Battles:** Requested that we keep the committee together by working on consensus, i.e., the committee agrees unanimously for recommendations.*

***Dan Zeitlin:** Agreed.*

***Brenda Wiest:** Agreed on the consensus basis, with highlighting of majority and minority recommendations in report.*

***Dan Zeitlin:** Agreed.*

Dan Zeitlin stated that committee will look to approve the updated charter at the September 27 meeting and will word the consensus piece of the charter to make sure it is clear and to use it going forward.

Break

Dan Zeitlin announced a 10-minute break and asked everyone to return at 11:05 a.m.

Dan Zeitlin welcomed everyone back and handed the meeting over to Caitlyn Jekel to continue the discussion.

Agency Request Legislation and Rulemaking

Remove required review of availability issues during appeal (Benefit Appeal Procedures)

- [RCW 50.32.040](#) requires the Office of Administrative Hearings (OAH) to consider availability issues on each case it reviews, even when availability is not an issue addressed by ESD in the determination letter
- Proposed removal of this provision to reduce time and confusion for individuals and employers engaged in appeals
- Increase OAH efficiency

Extend flexibility of job search monitoring requirements (Job Search Requirements)

- ESD's legal ability to pursue alternate ways for claimants to fulfill job search requirements is set to sunset in 2023
- Proposed removal of the sunset to make these provisions permanent, adding reporting requirement

Bob Battles: Regarding benefit appeal, how many of those decisions reviewed were overturned due to lack of availability? It would be nice to have a percentage.

Brandon Tukey: We do not have the numbers but will do some research and report back to you. Our experience has been that is rare that a claimant is not eligible for benefits due to lack of availability.

Bob Battles: Want to be sure there are not substantial numbers.

Julia Gorton: Issue of overpayments, because it is taking so long (220+ days) for a decision on an appeal, then there is a waiver in place which impacts employee rates, i.e., ESD waives a payment, a back log of months pass, claimant appeals, employer is charged. How does this impact employer charge? Reduce time for everyone involved.

Josh Swanson: Overpayments – claimants stop tracking. A lot of appeals being added to the queue. Claimants don't see notification or email. This is a lot of what is happening.

Brendan Tukey: Claimants have up to 48 hours before hearing to send ID verification to ESD or OAH. Availability gets tackled first, then moves to ID verification. Sometimes availability will become the issue.

Julie Gorton: Second proposal to extend correct ways to fulfill job search – what does flexibility include?

Joy Adams: Now it requires 3 in-person contacts with employer in RCW. Really an administrative role, i.e., Linked-in – what does a substantive job search look like? Removing the sunset clause provides flexibility to modernize the process.

Jerry VanderWood: Skeptical of work search used during pandemic. Bill 2 gives me pause due to no oversight. Who approves that list?

Joy Adams: We will work with ULAC to come up with the job search list that we can control in a more flexible, real-time way.

Bob Battles: Agree with Jerry and Julia – we want to make sure job application is realistic. How do we define it? Like the modernization of it.

Josh Swanson: Not skeptical. Flexibility is necessary. Many walk into the union hall and put their name on the list. Re: benefit appeal – this is positive and moving in the right direction.

Due to time constraints, Dan Zeitlin moved ahead on the agenda to the Minimum Weekly Benefit Amount Report and stated that we would come back to UI rulemaking update if we had time. Otherwise, we would save it for the next meeting.

Dan handed the meeting over to Matt Klein, PhD, Operations Research Specialist, ESD to continue the discussion.

Minimum Weekly Benefit Amount (MWBA) Report

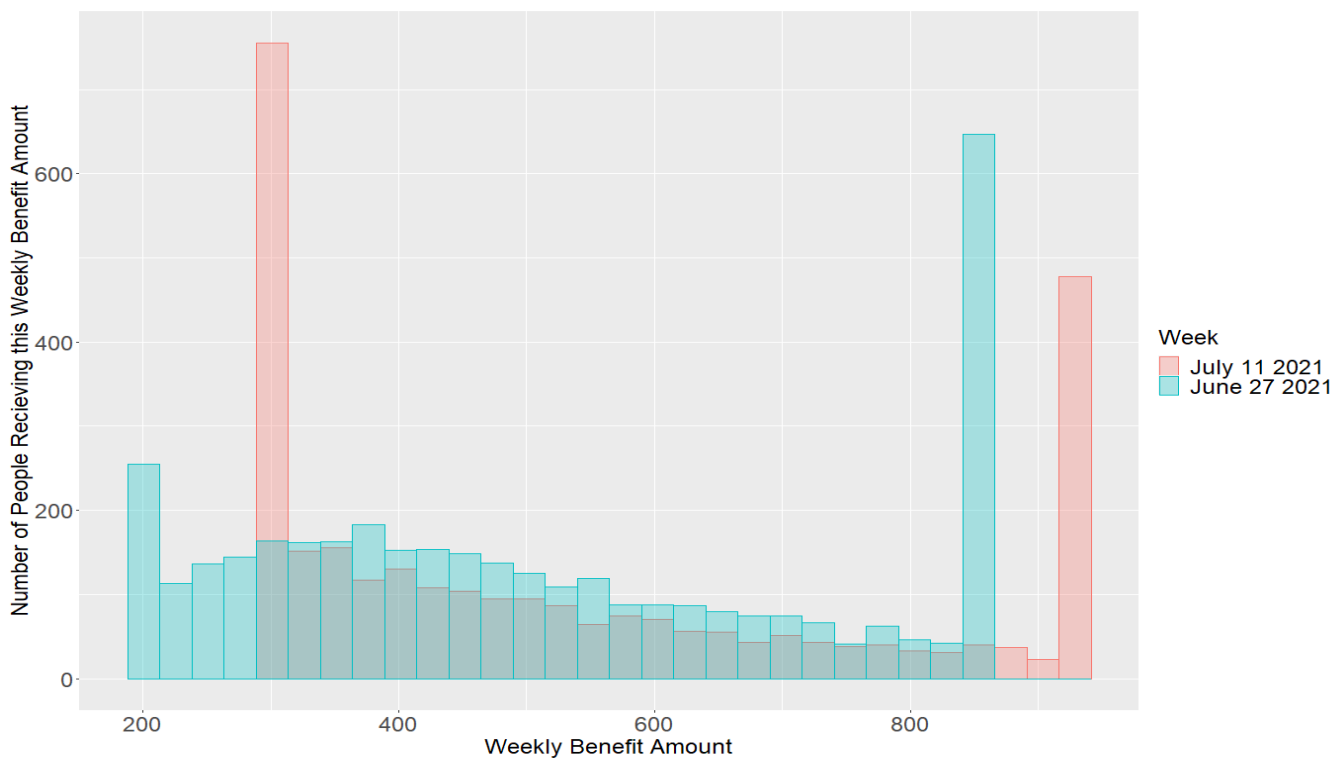
[RCW 50.12.355](#) (ESSB 5061):

By December 1, 2021, and annually thereafter until December 1, 2025, the department must report to the governor and the appropriate committees of the legislature:

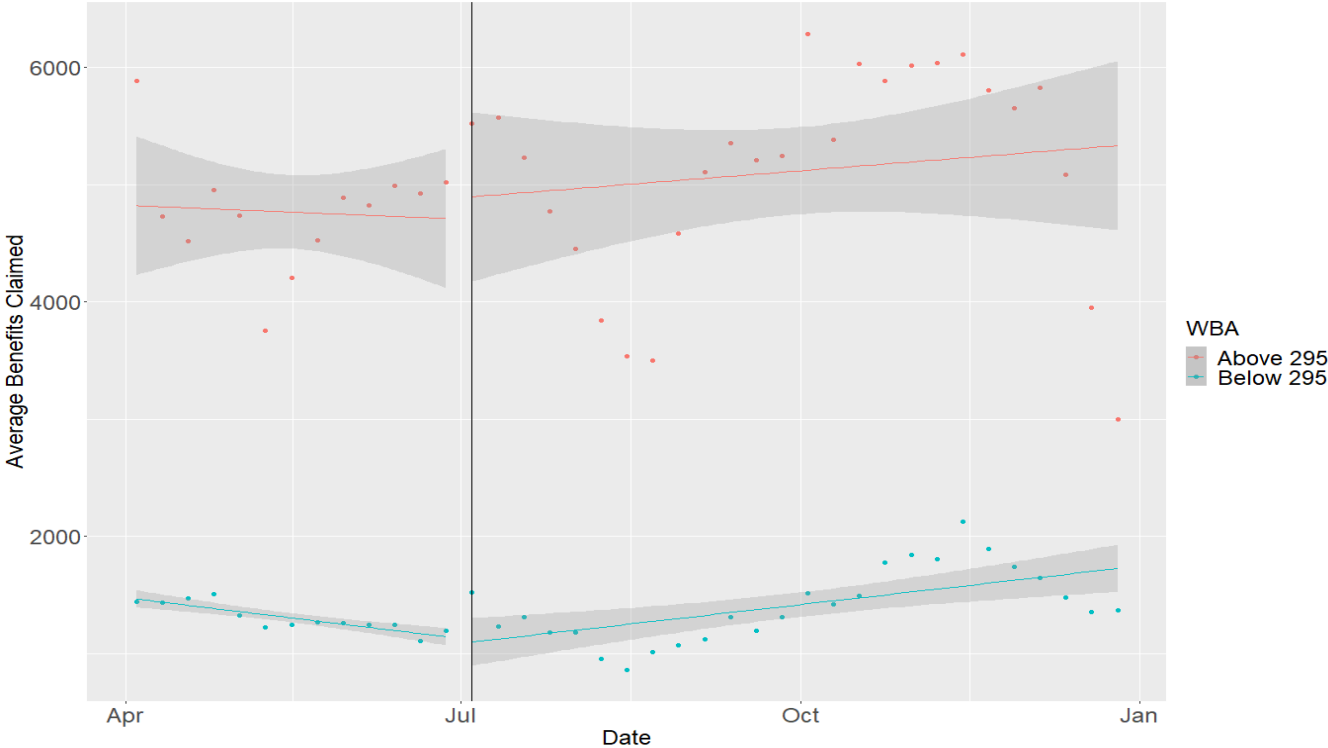
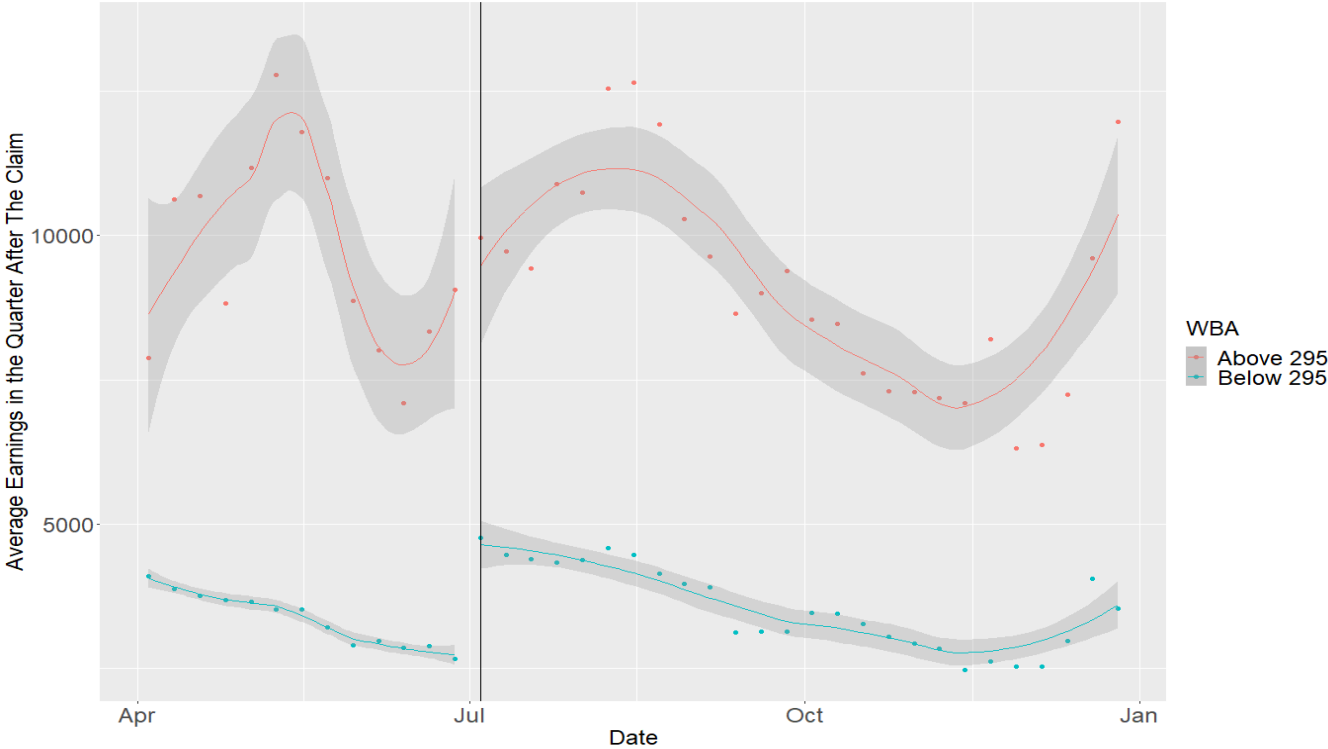
An analysis of the impact of the minimum weekly benefit amount increase, including comparing wages earned and benefits claimed for those individuals receiving the minimum weekly benefit amount and the average claim duration for those individuals.

- The department must use an existing unemployment insurance advisory committee comprising of members of business and members of labor to consult in the development of this report, including any evidentiary assumptions underlying the report.
- The report must be specifically discussed in a minimum of two meetings of the committee each year prior to submitting the report.

- The report must also include a section for committee members to respond directly to the contents of the report.



- Minimum increased from \$201/week to \$295/week on July 4, 2021
- If you would have received \$285/week in the absence of ESSB 5061, now you get \$10/week more



Cause and Effect Modeling

- Claimants from April 1 - August 8, 2021
- Identify which claimants were impacted by SB5061, and by how much
- Regression models controlling for:
 - Who was impacted by the MWBA increase
 - Amount of WBA
 - Macroeconomic factors (at the weekly level)
- Consistent approach possible in future studies
- Claimants from April 1 - August 8, 2021
- Identify which claimants were impacted by SB5061, and by how much
- Regression models controlling for:
 - Who was impacted by the MWBA increase
 - Amount of WBA
 - Macroeconomic factors (at the weekly level)
- Consistent approach possible in future studies

We estimate that, on average, for claimants who:

- Got the Minimum Weekly Benefit Amount
- Registered for UI during the weeks from July 4 to August 8, 2021
- The MWBA increase caused an increase of \$1,760.20 in average earnings in the quarter after the claim
- The MWBA increase caused a decrease of 1.9 weeks in average claim duration
- The MWBA increase caused a slight decrease in total dollars claimed in UI compensation

Dan Zeitlin stated that the Minimum Weekly Benefit Amount Report offers more detail and would be sent to the committee after the meeting. There will be more discussion at the September meeting.

Dan Zeitlin suggested we go ahead with the UI rulemaking update since we have ample time remaining. He handed the meeting over to Joshua Dye, Tax Policy Specialist, ESD to continue the discussion.

UI Rulemaking Update**Brief Adjudicative Proceedings**

- Permits Office of Administrative Hearings to more quickly resolve appeals by primarily reviewing records instead of doing a full hearing with live testimony.
- Adopted as emergency rule in April 2022.
- ALJs are scheduled for 60 brief adjudicative proceedings per week, compared to 24 per week for full hearings.
- Estimated 550-900 more appeals closed using brief adjudicative proceedings than would have been closed using full hearings.
- Proposed rules would make brief adjudicative proceedings a permanent option.

SOC Codes and Job Titles

- Under [HB 2308 \(2020\)](#), employers are required to report either job titles or Standard Occupational Classification (SOC) codes for each employee, starting with the 4th quarter of 2022.
- Employers that “knowingly” fail to report this information will get an incomplete report penalty.
- Department will be ready to accept SOC codes by 4th quarter of 2022 but will not be ready to accept job titles.
- Incomplete report penalty will not be imposed until employers can report either job titles or SOC codes.

Leave of Absence

- The current [Leave of Absence rule](#) says that an individual on a voluntary, unpaid leave of absence is not “unemployed” and ineligible for benefits.
- A [2011 precedential decision](#) by the Commissioner’s Review Office found that the rule conflicts with [state statute](#) defining “unemployed.”
- Since its publication, ESD has followed that decision and has not followed the rule.
- While an individual on a leave of absence may be deemed “unemployed,” that does not mean they are automatically eligible for unemployment benefits. Individuals who are “unemployed” still must meet other eligibility criteria, such as being able, available and actively seeking work.
- Rulemaking petition filed by Unemployment Law Project to delete the rule filed in 2022.

Emergency rules becoming permanent rules

- Converting pandemic emergency rules to permanent rules is 97% complete.
- One last technical fix on eligibility for shared work is still not complete.

Brenda Wiest: *What is SOC code vs. NAICS code?*

Dan Zeitlin: *Occupation classifications are derived from the Standard Occupational Classification (SOC) system. Industry classifications are derived from the North American Industrial Classification System (NAICS).*

Action Items

1. **Logistics:** Circulate contact information on committee members; **September:** approve both March 25 and August 30 meeting minutes.
2. **OPMA:** **September:** Schedule time with AGO on September Agenda
3. **Charter:** **September:** Vote to approve (Make sure it is clear decisions are consensus driven)
4. **Benefit Appeal:** Report on percentage of appeal claimants not eligible for benefits due to lack of availability

Future Topics

- UI Overpayments
- ESSB 5193 (2021) Implementation
- CARES Act Program Close-Out
- State Quality Service Plan
- UI Trust Fund Reports (September/November)
- Grants: Equity and UI Navigators

- Appeals Backlog

Due to the meeting running overtime, Dan Zeitlin suggested that we approve March 25, 2022 meeting minutes at our next meeting.

Public Comments

- Mikina Moore (Claimant)
- Lexy (WorkingWA)

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 12:23 p.m.

Next meeting

September 27, 2022 from 10:00 a.m. to noon via Zoom.

Addendum I

Agenda

Unemployment Insurance Advisory Committee (UIAC)

Tuesday, August 30, 2022 | 10:00 am - 12:00 pm | Via Zoom | 212 Maple Park Ave SE, Olympia, WA 98501

Agenda Items

Time	Topic
10:00 am	Welcome from Dan Zeitlin, Employment System Policy Director, Employment Security Department (ESD) <ul style="list-style-type: none"> o Agenda Overview
10:05 am	Introductions
10:20 am	Agency Strategic Plan-Dan Zeitlin, Director, ESD
10:25 am	General Administration-Dan Zeitlin, Director, ESD <ul style="list-style-type: none"> o UIAC Meeting Schedule o Open Public Meetings Act (OPMA) Requirements o UIAC Charter
10:50 am	Break
11:00 am	UI Agency Request Legislation and Rulemaking <ul style="list-style-type: none"> -Caitlyn Jekel, Government Relations Director, ESD -Josh Dye, Rules Coordinator, ESD o Benefit Appeals Procedures o Job Search Requirements o Agency Rulemaking Update
11:20 am	Minimum Weekly Benefit Amount Report <ul style="list-style-type: none"> -Dan Zeitlin, Policy Director, ESD -Matt Klein, PhD, Operations Research Specialist, ESD
11:45 am	Future Topics
11:50 am	Approval of March 25, 2022 Meeting Minutes
11:55 am	Public comment
12:00 pm	Adjourn

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

Addendum II**DRAFT**

UNEMPLOYMENT INSURANCE ADVISORY COMMITTEE CHARTER

Purpose

The Unemployment Insurance Advisory Committee (UIAC) shall aid the commissioner in formulating policies and discussing problems related to the administration of the Unemployment Insurance (UI) program and assuring impartiality and freedom from political influence in the solution of such problems: RCW 50.12.200. In doing so, the Committee will provide comment on unemployment insurance policy, operations, and performance management, as well as other issues the Committee determines to require its consideration. The Committee will provide a forum for listening to concerns of stakeholders and seeking input to improve the program to best serve workers and business.

Goals

The UI program provides critical financial support for workers while bolstering the broader economy. Identifying avenues to improve the UI program so that it better supports workers and businesses, including in times of economic crisis, is a vital endeavor.

The Committee will play a critical role in considering and providing recommendations to the Employment Security Department (ESD) to aid the department in meeting two agency strategic goals:

- Our most complex processes (pertaining to the UI program) are made simple and easy for staff and customers (workers and employers).
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In aiding ESD in meeting these goals, the Committee will seek to advise the department on improvements to the unemployment benefits and tax system by deliberating and providing recommendations on:

- Policy matters, including changes to state law and rules.
- Operational issues, including communications and direct interactions with customers.
- Performance management, including provide quality and timely benefits and tax services.

The Committee also maintains goals to:

- Foster community and stakeholder engagement in considering improvements.
- Commit to timely, robust, and open communication to the public, and to engaged stakeholder communities.

Membership

The Committee is made up of nine individuals appointed by the Commissioner. Three members appointed to represent employers. Three members appointed to represent employees. Three members appointed to represent the general public: RCW 50.12. 200. The Commissioner also delegates a representative from ESD to serve as Chair of the Committee. At the time of this Charter's creation, the following members have been appointed by the Commissioner:

Employer Representative: Bob Battles, Association of Washington Business

Employer Representative: Julia Gorton, Washington Hospitality Association

Employer Representative: Jerry Vanderwood, Association of General Contractors

Employee Representative: Cindy Richardson, UNITE HERE Local 8

Employee Representative: Josh Swanson, Operating Engineers 302

Employee Representative: Brenda Wiest, Teamsters 117

General Public: Anne Paxton, Unemployment Law Project

General Public: William Westmoreland, Pacific Mountain Workforce Development Council

General Public: Courtney Williams, Community Employment Alliance

Member Appointment

TERMS

Members are appointed by the Commissioner to serve an initial term through the end of calendar year 2023. Following the initial term, the Commissioner will determine future terms for the Committee.

MEMBER REPLACEMENT

Should a member resign from the Committee during their term, the Commissioner will appoint a replacement member.

Member Expectations

MEMBER COMMUNICATIONS WITH ONE ANOTHER OUTSIDE OF MEETINGS

Members may communicate outside of the Committee meetings. Member communications outside of the Committee are not on *behalf* of the advisory committee and individual members are not authorized by the Committee to make decisions for the Committee.

MEMBERS COMPENSATION

The members shall serve without compensation but are entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060. The committee may utilize such personnel and facilities of the department as it needs, without charge.

Council Meetings

MEMBER MEETING – CADENCE

Members will meet once a month or as otherwise needed through the end of calendar year 2022 and will determine the meeting schedule thereafter.

MEMBER MEETINGS - PROXY

Members may, after giving notice via email or telephone of at least 24 hours to the Chair, send a proxy member to the meeting. The proxy member will have full authority to act on behalf of the appointed member. If a proxy member attends and participates in the meeting as a member, the appointed member for whom a proxy was sent may not attend the meeting in his or her capacity as an appointed member.

MEMBER MEETINGS- QUORUM

The members agree that a quorum constitutes a simple majority of the total number of members excluding the Chair.

MEMBER MEETINGS- DISCUSSION

The Chair may, with consent from a majority of Committee members, allow individuals that do not serve on the Committee to participate in Committee discussions. Such individuals shall not vote on matters in front of the Committee members. The public shall have the opportunity to provide comment at all Committee meetings.

DECISION MAKING STRUCTURE

The members agree to use the *Robert's Rules of Order Newly Revised* to propose and agree upon decisions before the committee.