



Unemployment Insurance Advisory Committee

Meeting details

Date: Wednesday, December 14, 2022

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

Location: Zoom

Committee members present

Employee Representatives

- Cindy Richardson, UNITE HERE Local 8
- Josh Swanson, Operating Engineers 302
- Sybil Hyppolite (Proxy for Brenda Wiest)

Employer Representatives

- Bob Battles, Association of Washington Business
- Tammie Hetrick, WA Food Industry Association

General Public Representatives

- Anne Paxton, Unemployment Law Project
- William Westmoreland, Pac Mtn WF Dev Council
- Courtney Williams, Comm Employment Alliance

ESD staff

- Joy Adams
- Ashlee Delaney
- Clare DeLong
- Joshua Dye
- Vaughn Ellis
- Wendy Goldmark
- Caitlyn Jekel
- Matt LaPalm
- Marypat Meuli
- Scott Michael
- JR Richards
- Stephanie Sams
- Jill Will

Committee members absent

- Brenda Wiest, Teamsters 117
- Julia Gorton, Washington Hospitality Association

Summary

Meeting Recorded

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

Welcome and Opening Remarks

Unemployment Insurance Customer Support Director, JR Richards, welcomed everyone and asked Wendy Goldmark to take roll call. All committee members were present except Julia Gorton and Brenda Wiest.

Agenda

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

Meeting Minutes

JR Richards requested that everyone review the meeting minutes for November 9, 2022 and provide their feedback. Cindy Richardson made a motion to approve the minutes and Courtney Williams seconded the motion. JR asked for all members in favor to say, “Aye.” All members responded, “Aye”. JR asked members that oppose to say, “Nay.” No one responded. The November 9, 2022 meeting minutes were approved.

Opening Discussion

JR Richards opened the meeting discussion with a slide presentation and highlighted the below topics to be covered.

- 2023 Committee Meeting Schedule
- Agency Request Legislation
- Benefit Charge Report
- Overpayments Update
- SQSP Discussion Continued
- November Trust Fund Report
- Future Agenda Topics

2023 Committee Meeting Schedule

JR Richards reminded everyone that this was the last meeting on the 2022 calendar. JR proposed that the committee continue to follow the past meeting cadence of the last Friday of every month from 2:00 to 3:00 p.m. during the legislative session, i.e., January through April. The remainder of the year the committee would meet at the usual second Wednesday of the month from 10:00 a.m. to noon, i.e., May through December. The committee unanimously committed to the proposed meeting schedule, albeit through June only. At that time, they would like to discuss needs then set the schedule for the rest of the year, i.e., July through December. (See Addendum II)

JR Richards handed the meeting over to Caitlyn Jekel, Government Relations Director, ESD to continue the discussion.

UI Agency Request Legislation

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

Caitlyn Jekel asked for a motion to approve the Benefit Appeal Procedures Agency Request Legislation. Josh Swanson made a motion to approve and Bob Battles seconded the motion. Caitlyn asked for all members in favor to say, "Aye." All members responded, "Aye". Caitlyn asked members that oppose to say, "Nay." No one responded. The motion is approved, the legislation has the support of the UIAC.

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

Caitlyn asked for a motion to approve the Job Search Requirements Agency Request Legislation. Josh Swanson made a motion to approve and Cindy Richardson seconded the motion. Caitlyn asked for all members in favor to say, "Aye." All members responded, "Aye", except Bob Battles and Tammie Hetrick who remained neutral. Caitlyn asked members that oppose to say, "Nay." No one responded.

Removing the terms "master" and "servant" from Titles 50 and 50A

- ESD proposed agency request legislation on language changes in 2021 but did not ultimately run the bill.
- In 2021 UIAC voted to approve the bill.
- ESD is pursuing a more narrow version this year that removes reference to "the relationship of master and servant" in the definition of employment in the UI and PFML statutes.

Bob Battles, Anne Paxton, Josh Swanson and Sybil Hyppolite expressed their support.

Caitlyn Jekel thanked everyone for the discussion and handed the meeting back to JR Richards, who then handed the meeting over to Scott Michael, Legal Services Manager, ESD to continue the discussion.

Benefit Charge Report

[RCW 50.12.200\(2\)](#): Beginning in 2021 and ending in 2030, the commissioner shall annually report to the state advisory council the amount of benefits that were not charged to employers as a direct consequence of RCW 50.29.021(3)(a)(viii).

[RCW 50.29.021\(3\)\(a\)\(viii\)](#): A contribution paying base year employer not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who was discharged because the individual was unable to satisfy a job prerequisite required by law or administrative rule.

August 2021 – October 2022

- Relief of benefit charges was granted with relation to 13 different claims
- A total of \$45,387.78 was non-charged
- Examples:
 - Commercial driver license suspended, \$20,550.00 non-charged
 - EMT certification was not renewed, \$11,820.00 non-charged

Scott Michael handed the meeting back to JR Richards to continue the discussion.

Overpayment Update

Providing overpayment relief is ESD's highest priority project

Coverage – Pandemic Era Benefits Feb 2, 2020 – Sept 4, 2021

Q1 2023 start processing automated waivers

- Six scenarios already authorized by USDOL for federally funded benefits
- Claimants not required to take any action – ESD completes entire process
- Claimants will be notified overpayment have been waived

Q1 start charging off overpayments less than \$1,000

- Federal and/or state funded benefits
- Claimants not required to request – ESD completes entire process
- Claimants will be notified charge-off is complete

Q1 2023 start accepting individual waiver requests

- Previous waiver looked only at financial ability to pay
- Newly expanded criteria take lived experience into account
- Web-based fillable application form linked from ESD.WA.GOV
- Staff available by phone to help

Individual waiver process

Any claimants with a pandemic era overpayment can request a waiver.

- Includes claimants who have appealed, those denied waiver under old rules

Two-step process

- Claimants will fill out waiver application
- ESD adjudication staff will review information provided against newly established criteria
- Qualifying claimants will receive a waiver and notice of the outcome

- Waivers cover principal overpayment, penalty, interest

Claimants who don't qualify for waivers will be notified and can:

- Continue with their appeal process
- Set up a payment plan with reasonable amount due each month

ESD not collecting on overpayments as waiver process is underway

Claimants with overpayments outside the pandemic period

Claimants with regular UI overpayments should contact ESD for help.

Claimants can:

- File an appeal if they believe they should not have an overpayment and it is still within the appeal window.
- Request a standard waiver form if they believe they may qualify for a waiver.
- Set up a payment plan if they cannot afford to repay the overpayment all at once.

Tammie Hetrick: *So, when a claimant's overpayment is granted the waiver, is the employer account credited automatically, as well?*

Scott Michael: *Probably 90 -100% of the time if we are paying benefits that should not have been paid out, then employers will not be charged for those benefits. Also recognize that the majority of the overpayments that came in during this pandemic period are federal overpayments. All of those federally funded benefits were never charged to employers to begin with. The one exception where this is going to be an issue is for those employees who are reimbursable on state benefits. So, these are the employers that have to reimburse the trust fund dollar for dollar that are paid out. Those employers do get the right to appeal an overpayment waiver, because if we are not getting the money, back from the claimant, then we need to get that money back from their employer. And so, there is some potential there for employers to disagree with us and have an appeal with regards to overpayment waiver, but for the overwhelming majority of employers, who are for profit businesses, they've already been relieved benefit charges because we should not have paid those benefits to begin with, so we're not going to charge those benefits to the employer.*

Anne Paxton: *I want to thank the agency for taking such a strong and compatible approach to the overpayment problem. It's been carefully thought out and I know a lot of a lot of work has gone into this. There is a lot of interest in the newly established criteria outside the state, as well as here. Is there anything you can tell us about how that's going to be communicated? Can we tell other advocates for example that the criteria are established and are publicly available?*

JR Richards: *Thank you so much. I will take that back to the team. This has not been an easy project. There is a high level of complexity and our folks across the agency working on this care deeply about the impact to claimants and really want it to be right for them knowing what claimants went through during the pandemic. So, thank you. I know they'll appreciate it. If you're asking about the newly established criteria and how we're handling this, I think, specific to slides that were shared in September, that is public. So, I don't think that there is anything that would prohibit you from sharing that out because it is publicly available and was shared in an open forum.*

Joy Adams: *If you go to our website ESD.WA.GOV, where the ULAC meeting minutes and slide decks are held in the Newsroom area, you can link directly to the slide deck from September that has those slides.*

Caitlyn Jekel: *We'll keep you all posted on what's available online for the claimant.*

Sybill Hyppolite: *I just wanted to echo thanks for working on this and we all know how stressful this was for folks. So, I just really appreciate the agency's efforts to take care of people. I'm not sure if someone said it earlier, but will there be reports as we roll out in quarter one? Will this committee be hearing more about this each time?*

JR Richards: *Yes, I am committed to continuing to share with the committee.*

Sybill Hyppolite: *I have one more question. I was curious about language access and as we're figuring out how to communicate this complicated information to folks and training up staff to be able to work through this, if you could talk about language, access for folks.*

JR Richards: It is really important to our agency. We understand the impact to our claimants. There is a subsection of a team for which this is the focus, which also means getting it in front of community representation for feedback on what makes the most sense, how can we get this out there, and does this work for folks. We're really committed to that and we have a team of really talented folks that are focused on doing exactly that. Some of the specifics of what that looks like I don't have for you today, but I will definitely continue to share out specifically how we're addressing that.

JR Richards suggested that the meeting break for 10 minutes and return at 11:00 a.m.

Upon return from break, JR Richards handed the meeting over to Joy Adams, ESPI Deputy Director, ESD and Jill Will, UICS Policy and Compliance Manager, ESD to continue the discussion.

State Quality Service Plan (SQSP)

Process Overview

- Plan was submitted to USDOL October 27th, 2022 and provided to UIAC prior to the November meeting for review
- USDOL sent WA signed approval of SQSP November 28th, 2022
- Quarter 1 for SQSP Program year began October 1st, 2022
- First quarter reporting is due to USDOL by February, 27th, 2023
- There are currently no documented milestone updates included in the SQSP Workbook as we are still within Quarter 1
- Integrity Action Plan is only updated once every 6 months and will not be due until after Q2 and submitted with the Q2 update to USDOL (to be submitted in May 2023)

Corrective Action Plans – First Pay and Non-Monetary Timeliness

Performance Measures – First Pay Timeliness	ALP	CAP Based on 04/01/2021 - 03/31/2022 Performance
First Payment Promptness: % of all 1st payments within 14/21 days after the compensable week.	≥ 87%	62.51%
First Payment Promptness, 14/21 days Intrastate UI full weeks	≥ 87%	61.79%
First Payment Promptness, 14/21 days Interstate UI full weeks	≥ 70%	53.52%
First Payment Promptness, 35 days Intrastate UI full weeks	≥ 93%	72.77%
First Payment Promptness, 35 days Interstate UI full weeks	≥ 78%	67.32%
Performance Measures	ALP	CAP Based on 04/01/2021 - 03/31/2022 Performance
Nonmonetary Determination Timeliness	≥ 80%	57.30%

- First pay and non-monetary timeliness results often linked.
- During pandemic huge work volume and adjudication backlog were key factors
- Overall work volume greatly reduced, but still not meeting timeliness targets
- Currently exploring multiple potential root causes
- After data collection and analysis, ESD will add milestones to corrective action plans

Corrective Action Plans – First Pay and Non-Monetary Timeliness

Root causes under review

- Identity theft investigation delays on other issues awaiting adjudication
- Fact-finding efficiency - phone calls versus emails

- Earnings issues investigations that trigger other issues
- Total production hours available for original decisions versus redeterminations, appeals, other work
- Large number of agents in training
- Workflow – older cases coming out of indefinite hold
- Workflow – how adjudicators handling assigned cases
- Overall complexity of claims that may be affected by issues set in previous years

Corrective Action Plan – Lower Authority Appeals

Performance Measures	ALP	CAP Based on 04/01/2021 - 03/31/2022 Performance
Average Age of Pending Lower Authority Appeals	≤ 30 days	109.20
Lower Authority Appeals Time Lapse - 30 days	≥ 60%	1.90%
Lower Authority Appeals Time Lapse - 45 days	≥ 80%	2.54%

- ESD and OAH continues to work Pandemic-related appeals and issues
- Now creating current and future state maps and appeals pilot project to increase efficiencies
- Full pilot launch of future state appeals process is expected June 2023
- ESD continues to partner with OAH to problem solve the volume and backlog of appeals

Integrity Action Plan

USDOL particularly focused on fraud prevention, detection, and recovery

Integrity Action Plan addresses seven national priorities set by USDOL

- Tools, services, strategies, process improvements, and procedural changes to combat fraud, verify identities, and enhance recovery efforts.
- Addressing top three improper payment root causes in 2021 for Payment Integrity Information Act (PIIA) purposes.
- State coordination and collaboration with USDOL Office of Inspector General, Office of Investigations and other state and Federal law enforcement agencies to investigate and prosecute UI fraud.
- Strengthen program integrity in UI tax operations, including identifying and prevent worker misclassification, State Unemployment Tax Act (SUTA) dumping, fictitious employer schemes, and improving employer audit strategies.
- Strengthen internal security and ensure that all appropriate internal controls and processes are in place and are adequate to assess internal risks and threats, ensure program integrity, and minimize program vulnerabilities.
- Balance identifying and preventing fraudulent activity with ensuring that eligible individuals with legitimate claims get benefits when due.
- Complete, accurate, and timely overpayment reporting on benefit overpayments and identity theft on ETA 227 and 902P reports.

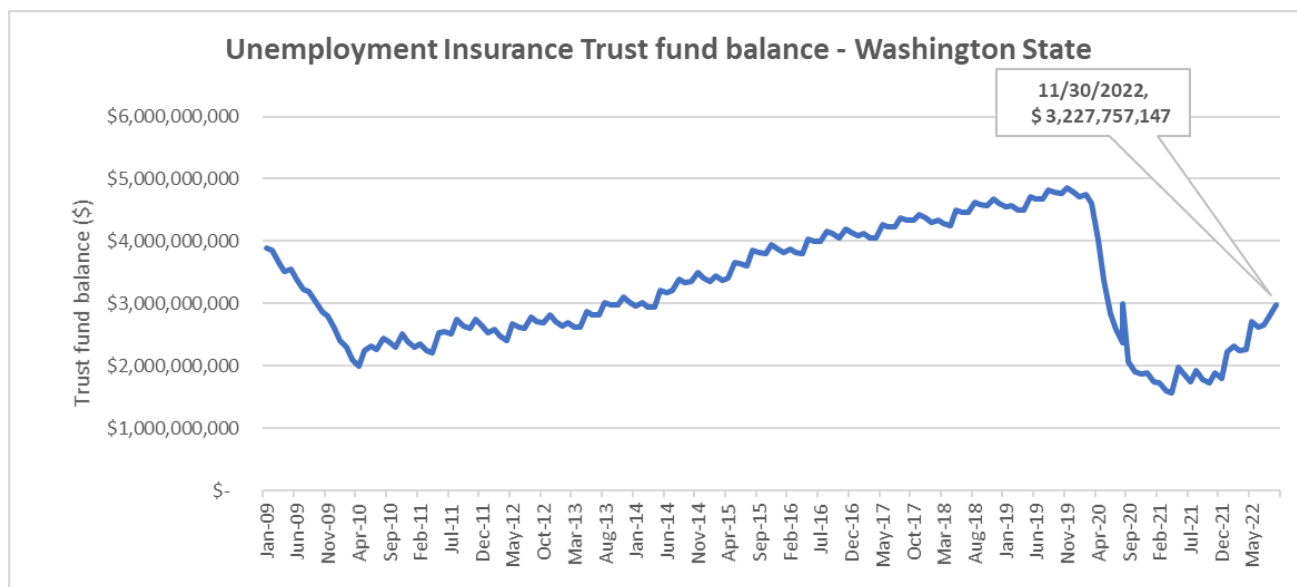
Joy Adams and Jill Will handed the meeting back to JR Richards who handed the meeting over to Vaughn Ellis, UI Trust Fund Analysis Supervisor, ESD to continue the discussion.

November UI Trust Fund Report

- The [November 2022 report](#) provides the status and updated projections of the state’s unemployment insurance (UI) trust fund for 2022 through 2027.
- The report is based upon the November 2022 economic forecast released by the state’s Economic and Revenue Forecast Council (ERFC).
- The report uses quarterly forecast information and UI tax and benefit data through September 2022 (Q3 2022).

Unemployment Insurance Trust Fund

- On November 30, the UI trust fund balance was approximately \$3.2 billion



November UI Trust Fund Report: Key Takeaways

- The unemployment trust fund balance is on a positive trajectory through 2027.
- The projected trust fund balance for 2022 is roughly \$3.1 billion, about \$230 million lower than in the September report.
- The average projected tax rate for 2022 is 1.33%, as it was with the September report.
- Benefit payments are projected to be approximately \$83 million lower in 2022 than projected in the September report.

Unemployment-insurance trust fund: November 2022 Baseline Forecast							
(based on actual data through September 30th, 2022. November 2022 Washington State Economic and Revenue Forecast Council assumptions)							
Taxes	CY 2021	CY 2022	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027
Average experience tax rate (percent)	1.23%	1.00%	1.00%	1.00%	1.00%	0.78%	0.75%
Experience tax contributions	\$1,295.49	\$1,287.10	\$1,289.31	\$1,320.35	\$1,365.09	\$1,106.10	\$1,090.17
Flat social tax rate (percent)	0.50%	0.50%	0.60%	0.60%	0.60%	0.50%	0.50%
Social tax contributions	\$310.27	\$434.77	\$511.58	\$536.34	\$554.51	\$477.48	\$476.56
Solvency tax rate (percent)	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Solvency tax contributions	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total average tax rate (experience tax + social tax)	1.52%	1.33%	1.40%	1.41%	1.41%	1.12%	1.08%
Total tax contributions	\$1,605.8	\$1,721.9	\$1,800.9	\$1,856.7	\$1,919.6	\$1,583.6	\$1,566.7
Benefits							
Weeks compensated (in millions) - regular benefits	3.3	1.7	2.1	2.3	2.3	2.2	2.2
Average weekly benefit amount	\$490.43	\$592.32	\$628.57	\$666.91	\$697.43	\$732.87	\$754.43
Regular benefit payments	\$1,562.9	\$992.6	\$1,291.7	\$1,553.0	\$1,634.7	\$1,647.2	\$1,634.5
Total benefit liability	\$1,469.1	\$933.0	\$1,214.2	\$1,459.8	\$1,536.6	\$1,548.3	\$1,536.4
Reimbursable benefit payments	\$93.8	\$59.6	\$77.5	\$93.2	\$98.1	\$98.8	\$98.1
Total benefit payments	\$1,562.9	\$992.6	\$1,291.7	\$1,553.0	\$1,634.7	\$1,647.2	\$1,634.5
Trust fund							
Beginning trust fund balance	\$1,890.6	\$1,790.2	\$3,071.1	\$3,740.2	\$4,234.7	\$4,578.0	\$4,704.5
Trust fund interest	\$34.5	\$48.9	\$82.5	\$97.6	\$108.8	\$115.5	\$118.6
Total tax contributions	\$1,605.8	\$1,766.7	\$1,800.9	\$1,856.7	\$1,771.1	\$1,559.3	\$1,566.7
Reimbursements from reimbursables	\$93.8	\$59.6	\$77.5	\$93.2	\$98.1	\$98.8	\$98.1
Total benefit payments	\$1,562.9	\$992.6	\$1,291.7	\$1,553.0	\$1,634.7	\$1,647.2	\$1,634.5
Ending trust fund balance (as of 12/31)	\$1,790.2	\$3,071.1	\$3,740.2	\$4,234.7	\$4,578.0	\$4,704.5	\$4,853.4
Months of benefits available (as of 9/30)	4.1	7.0	8.6	9.6	10.2	10.2	10.2

UI Trust Fund Forecast (November 2022)

	Sep 2022 Forecast	Nov 2022 Forecast
2022 Unemployment Benefit payment projection	\$1.1 Billion	\$1.0 Billion
2023 Unemployment Benefit payment projection	\$1.3 Billion	\$1.3 Billion
2022 Employer Contributions	\$1.7 Billion	\$1.8 Billion
2023 Employer Contributions	\$1.7 Billion	\$1.8 Billion

Benefit Payments

- The average annual wage is used to calculate unemployment benefit levels for the year (July-June).
- The minimum weekly unemployment benefit, calculated per state statute at 20 percent of the average weekly wage, is \$317 for new claims opened on or after July 4th.
- The maximum weekly benefit, which is the greater of \$496 or 63 percent of the average weekly wage, is \$999.

Benefit Payment Amounts

Year:	CY 2021	CY 2022	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027
Amount (in billions):	\$1.6	\$1.0	\$1.3	\$1.6	\$1.6	\$1.6	\$1.6

Experience Tax Rate

- The experience rate tax is an annual calculation based on the ratio of benefit claims charged to the employer and “taxable wages” reported by the employer over the preceding four fiscal years.
- Per state statute, the taxable wage base was \$62,500 in 2022 and will be \$67,600 in 2023.

Average Experience Tax Rates

CY 2021	CY 2022	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027
1.23%	1.00%	1.00%	1.00%	1.00%	0.78%	0.75%

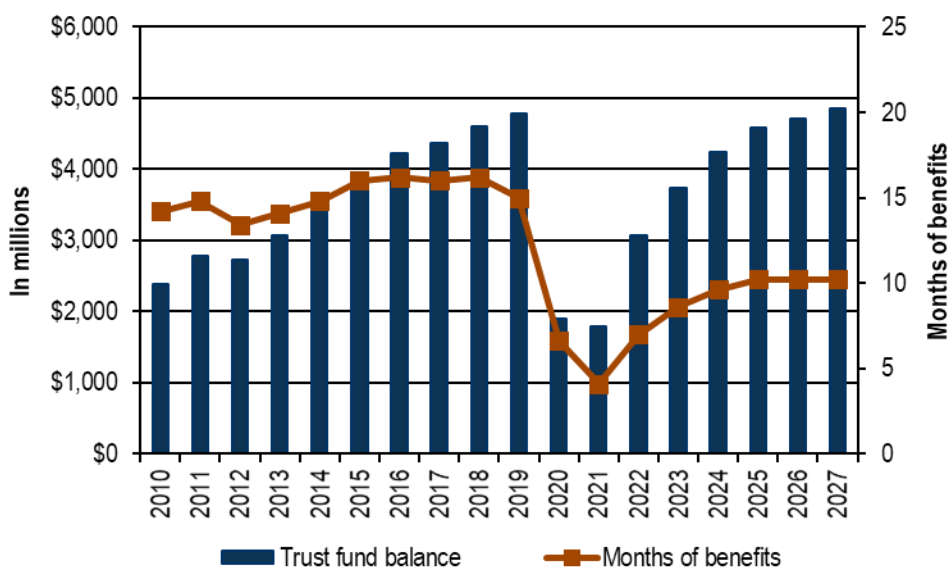
Social Tax Rate

- The “flat social tax” is an annual tax calculation made after September 30 subtracting total experience rated taxes paid by all employers over four consecutive quarters from total unemployment benefits paid to all claimants over those same quarters.
- This amount is then divided by total taxable payrolls and expressed as a percent.

Projected Flat Social Tax Rates

CY 2021	CY 2022	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027
0.50%	0.50%	0.60%	0.60%	0.60%	0.50%	0.50%

Projected Trust Fund Balances



Year	CY 2021	CY 2022	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027
Amount (in billions):	\$ 1.8	\$ 3.1	\$ 3.7	\$ 4.2	\$ 4.6	\$ 4.7	\$ 4.9

Vaughn Ellis handed the meeting back to JR Richards to continue the discussion.

Future Meeting Topics

- Legislative Session Updates
- Rulemaking Updates
- Overpayments Project Updates
- Appeals Backlog Updates
- Other?

Courtney Williams: Do work committees ever form within this group to work on various items coming from this committee? Do we ever establish work committees, just because we might want to think about making time and be thinking about that ahead of time?

Scott Michael: We had specialized committees created through legislation through the past couple of years via Zoom. This year there is a separate committee for transportation network companies. Some members of this committee also served on that committee as well, in addition to other more specialized members. The same thing happened with undocumented workers, where there was a work group formed, then a report was issued. So, yes, it has happened and we can continue to work on that in the future if this is something the committee thinks is worthwhile.

Action Items

None

Public Comments

Gary Moon

Rory O'Sullivan – WEBA, PLLC

Carmen Figueroa

Lauren Koby

Marli McCormick

Chelsea Rustad

Shirley Baerg

Kristin Hanke

Larissa Flora – Working Washington

Lexy Rayelts Salas – Working Washington

Adjourned

JR Richards thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 12:15 p.m.

Next meeting

January, 27, 2023 from 2:00 p.m. to 3:00 p.m. via Zoom.

Addendum I

Agenda

Unemployment Insurance Advisory Committee (UIAC)

Wednesday, December 14, 2022 | 10:00 am - 12:00 pm | Via Zoom | 212 Maple Park Ave SE, Olympia, WA 98501

Time	Topic
10:00 am	Welcome from JR Richards, Unemployment Insurance Customer Support (UICS) Director, Employment Security Department (ESD) <ul style="list-style-type: none"> o Agenda Overview
10:05 am	Approval of November 9, 2022 Meeting Minutes
10:10 am	2023 Committee Meeting Schedule <ul style="list-style-type: none"> -JR Richards, Director, ESD -Wendy Goldmark, Administrative Assistant, ESD
10:20 am	Agency Request Legislation <ul style="list-style-type: none"> -Caitlyn Jekel, Government Relations Director, ESD o Benefit Appeal Procedures and Job Search Requirements
10:30 am	Benefit Charge Report <ul style="list-style-type: none"> -Scott Michael, Legal Services Manager, ESD
10:40 am	Overpayments Project Update <ul style="list-style-type: none"> -JR Richards, Unemployment Insurance Customer Service Director, ESD
11:00 am	Break
11:10 am	State Quality Service Plan (SQSP) Discussion <ul style="list-style-type: none"> -Nicole Sherman, Quality Assurance Manager, ESD
11:30 am	November UI Trust Fund Report <ul style="list-style-type: none"> -Vaughn Ellis, UI Trust Fund Analysis Supervisor, ESD
11:50 am	Future Agenda Topics
11:55 am	Public Comment
12:00 pm	Adjourn

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

RECORDING DISCLAIMER:

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Addendum II

Unemployment Insurance Advisory Committee**Meeting Dates – 2023**

Date	Location	Host	Notes
Jan 27, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
Feb 24, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
Mar 31, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
Apr 28, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
May 10, 2023 10:00 AM	*Zoom	ESD	^Recorded meeting
June 14, 2023 10:00 AM	*Zoom	ESD	^Recorded meeting