



Unemployment Insurance Advisory Committee

Meeting details

Date: Wednesday, June 26th, 2024

Time: 10:00am - 12:00 pm

Location: Zoom

Committee members and alternates present

Employee Representatives

- Sybill Hyppolite, Washington State Labor Council
- Josh Swanson, Operating Engineers 302
- Brenda Wiest, Teamsters 117

Employer Representatives

- Bob Battles, Association of Washington Business
- Katie Beeson, Washington Food Industry Association
- Josie Cummings, Avista
- Julia Gorton, Washington Hospitality Association

General Public Representatives

- Anne Paxton, Unemployment Law Project

ESD staff

- Joy Adams
- Danielle Cruver
- Joshua Dye
- Stephanie Frazee
- Camille Galeno
- Colin Helsley
- Lawrence Larson
- Jeff Robinson
- Paul Rostad

Committee members and alternates absent

- Monica Holland, Northwest Justice Project (alternate public rep)
- Allyson O'Malley-Jones, Northwest Justice Project
- Cindy Richardson, UNITE HERE Local 8
- Joe Kendo, WA State Labor Council (employee rep)
- (alternate public rep)
- William Westmoreland, Pac Mtn WF Dev Council

- Eve Sheng
- Stephanie Sams

Summary

Meeting Recorded

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

Welcome and Opening Remarks

ESD Chief of Staff Dan Zeitlin filled in for committee chair JR Richards at this meeting. Dan welcomed everyone to the meeting and asked committee assistant Colin Helsley to call roll.

Katie Beeson Intro

Dan welcomed new committee alternate Katie Beeson to the meeting and gave her the floor to introduce herself. Katie is the Government Affairs Director at the Washington Food Industry Association.

Agenda

Dan reviewed the following agenda items (also see Addendum I)

- Approval of May 15, 2024, meeting minutes
- Approve schedule for remainder of 2024
- OAH Appeals update & introduction of new Chief ALJ, RaShelle Davis
- Updated Taxable Wage Base
- Budget Overview
- Rulemaking Update
- Legislative Implementation Items
- Public Comment
- Adjourn

Meeting Minutes

Dan requested that everyone review the May 15th, 2024 draft UIAC meeting minutes and provide their feedback. Brenda Wiest moved to approve the minutes. Julia Gorton seconded the motion. All in favor said “aye”. No members were opposed. The May 15, 2024 meeting minutes were approved.

Approve Schedule for Remainder of 2024

Dan presented the following proposed schedule to the committee for feedback, particularly the upcoming July meeting date.

- July 24, 2024 11:00 AM – 12:00 PM (Discuss Decision Packages)
- Aug. 7, 2024 1:00 PM – 3:00 PM
- Sept. 4, 2024 1:00 PM – 3:00 PM
- Oct. 30, 2024 10:00 AM – 12:00 PM
- Dec. 11, 2024 1:00 PM – 3:00 PM

A majority of committee members approved of the July 24th meeting date and this date was confirmed.

OAH Appeals Update & Introduction of New Chief ALJ, RaShelle Davis

Dan turned the floor over to Brendon Tukey, Division Chief ALJ, OAH to introduce OAH's new Chief ALJ, RaShelle Davis. Chief Davis introduced herself to the committee. Chief Davis's intro is included in the slide below.

Introducing: Chief RaShelle Davis




- Chief Administrative Law Judge with the Office of Administrative Hearings, appointed by Gov. Inslee May 1, 2024.
- The position was previously held by Lorraine Lee who retired last year.
- RaShelle has served as a policy advisor at the state's then-named Department of Early Learning and Office of the Governor, as well as director of operations at the state's Office of Civil Legal Aid.
- Welcome RaShelle!



Brendon Tukey then provided an appeals update using the following slides.

UI Appeals: Then & Now



Average inventory	Average processing time pre-pandemic vs post-pandemic	Average monthly intake pre-pandemic vs post-pandemic
<ul style="list-style-type: none">• Peak Inventory (March 2022): 46,129 cases.• Inventory as of 31 May 2024: 5,755 cases.• 88% reduction over 26 months even as new cases arrived daily.	<ul style="list-style-type: none">• 2019: 35.77 Days.• Peak pandemic processing time (May 2024): 240.59 days.• As of 31 May 2024: 41.46 days.	<ul style="list-style-type: none">• 2019: 2,473 / month.• 2023: 3,323 / month.• As of 31 May 2024: 4,024 / month.

Josh Swanson commented on the significant increase in volume of appeals since 2019, and asked about projections for moving forward. Brendon answered that this was a great segue to the following slide and added that a higher average intake seems to be the new normal with no return to pre-pandemic averages. Brendon outlined some measures being taken to address that including hiring additional ALJs, and using tools developed for handling higher volumes.

UI Appeals: Looking Forward



- Higher average intake seems to be the “new normal”.
- Hiring additional ALJs to complete backlog resolution and to address current intake reality.
- Focused on reducing processing time:
 - First to pre-pandemic rates (35 days or less)
 - Then continued improvement (25 days or less)

Bob Battles asked what could be driving the new higher average. Brendon speculated that one possibility could be population growth and a larger state economy, and another may be that through the pandemic, many more people were exposed to the UI program and appeal rights, which may have led to a higher number of people feeling comfortable filing appeals. Dan Zeitlin added that changes in customer behavior is one factor, and that fraud is another, noting that ESD is doing root cause analysis to understand what is leading to more claims going to OAH.

Josh Swanson commented on what appears to be a redoubling on the part of ESD to ensure compliance and heightened auditing protocols. Josh also asked about the addition of ALJs as necessary. Brendon clarified that this was in reference to shifting resources and using tools that allow handling of higher volumes with the same number of people, but that OAH is also in the process of hiring additional temporary 1-year ALJs.

Josh asked if the trend continues on the current trajectory, will additional resources be needed? Brendon answered this would be fair to assume, although it is challenging to forecast numbers of claims and appeals, and added “We've really shifted our focus from counting volume to looking at our timeliness on how quickly we can turn around” adding “We're back where we were pre-pandemic but from there we are setting our sights to try and bring that down further... to around a 25 day average”

Dan also added that Josh's points about work search are noted, and that the agency's goal is to make the customer experience such that the customer can easily understand what the requirements are and have a quality determination made.

Anne Paxton asked whether there is available data showing comparative volume between employer appeals versus claimant appeals and how those have varied since before the pandemic, during the pandemic and now. Brendon answered that he'd be happy to locate this data for Anne.

Josh thanked Dan for the agency's efforts on this.

Updated Taxable Wage Base (Effective July 1)

Dan turned the meeting over to Jeff Robinson, Labor Market Analysis/Current Labor Force Statistics Manager, ESD who provided an overview of the updated taxable wage base using the following slides.

Taxable Wage Base



RCW 50.24.010 The taxable wage base is the maximum amount of an employee's total wages that is taxable under the unemployment insurance program. The maximum amount is set each year based on the average annual wage for contribution purposes (AAWCP) for the previous year. By state law, the amount of wages subject to tax for each individual shall be 115 percent of the wages subject to tax for the previous year rounded to the next lower \$100, except that the amount shall not exceed 80 percent of the "average annual wage for contributions purposes" for the second preceding calendar year rounded to the next lower \$100.

Beginning January 1, 2025, employers will pay unemployment taxes on the first \$72,800 paid to each employee. The calculation is as follows based on an AAWCP in 2023 of \$91,004:

- Round down (115% times \$68,500) = \$78,700 which exceeds the 80 percent maximum
- Round down (80% times \$91,004) = \$72,800

Uses of the Average Annual Wage



- Unemployment Insurance minimum and maximum benefit levels
- Employers' Unemployment taxes (Taxable wage base)
- Paid family and medical leave maximum benefit levels
- Labor & Industries also uses average annual wage to calculate the COLA (Cost of living adjustment) for worker's compensation benefits.

Average Annual Wage



RCW 50.04.355(1)(a): "...the quotient derived by dividing the total remuneration reported by all employers for the preceding calendar year by the average number of workers reported for all months of the preceding calendar year..."

- $(\text{total remuneration}) / (\text{average \# workers}) = (\text{AAW})$

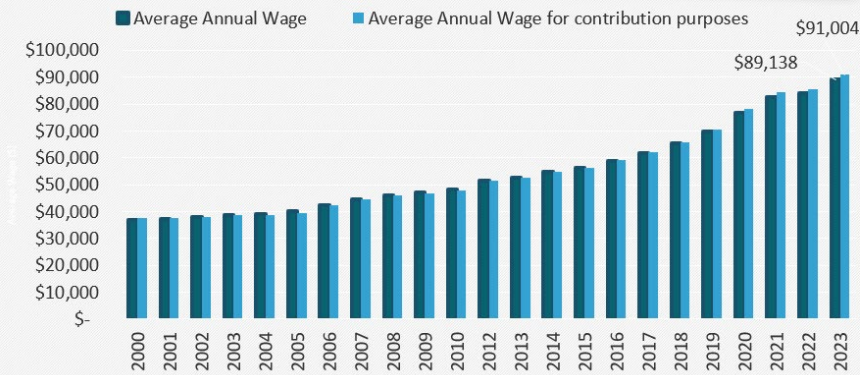
Average Annual Wage for Contribution purposes



RCW 50.04.355(1)(c): "...The "average annual wage for contributions purposes is the quotient derived by dividing the total remuneration reported by all employers subject to contributions by the average number of workers reported for all months by these same employers ..."

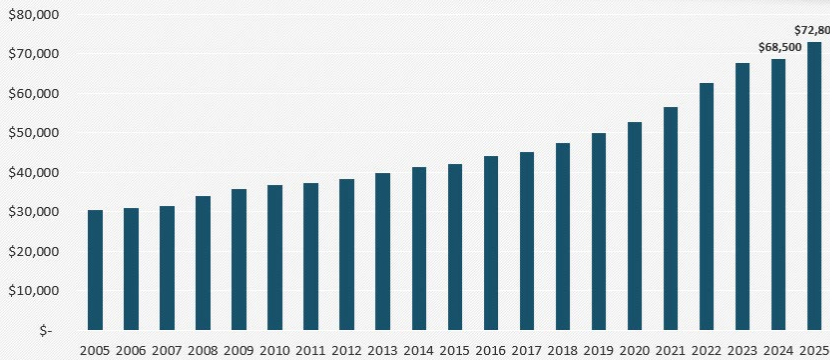
- $(\text{total remuneration taxable employers}) / (\text{average \# workers for taxable employers}) = (\text{AAWCP})$

Average Annual Wage and Average Annual Wage for contribution purposes (\$)



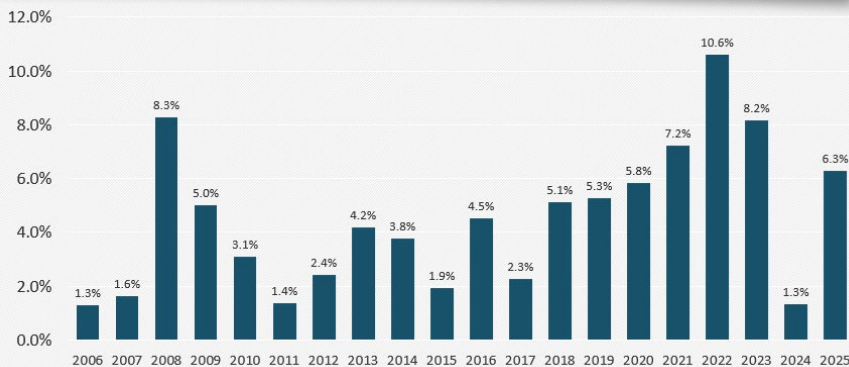
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Unemployment Insurance Taxable Wage Base



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Washington State Taxable Wage Base (% change)



There were no questions raised.

UI Program Budget Overview

Dan first presented the budget overview agenda, then spoke about federal funding, state funding, and fiscal year 24 ESD total appropriation using the following slides.

Agenda

- I. ESD Funding Sources (Federal and State)
- II. UI Administration
- III. CPP and P&I Projections
- IV. Next Steps

Federal Funding



Unemployment Insurance (UI) Program

- **UI Administration:** Used to administer UI program. The Federal Unemployment Tax Act (FUTA) is a 0.6% employer tax on the first \$7,000 of each worker's earnings per year. These funds are paid to the federal government and distributed to states based on an allocation methodology for UI administrative costs.

Workforce Programs

- **Wagner-Peyser:** Used for ESD staff to provide employment services at WorkSource centers throughout the state. In WA, 90% of funds are allocated for general services and 10% are allocated to Migrant and Seasonal Farmworker (MSFW) outreach.
- **Workforce Innovation and Opportunity Act (WIOA) Administration:** Funds provided to ESD to oversee Adult, Dislocated Worker, and Youth employment and training services provided by staff in local workforce areas.
- **Other:** Foreign Labor Certification (FLC), Jobs for Veterans State Grants (JVSF), Reemployment Services and Eligibility Assessment (RESEA), and Trade Adjustment Assistance (TAA)

Federal Funding



Labor Market Information (LMI) Programs

- **Bureau of Labor Statistics (BLS):** Used for statistical data gathering, analysis and dissemination to include current employment statistics, local area unemployment statistics, occupational employment statistics, quarterly census of employment and wages, and mass layoff statistics.
- **Workforce Information Grants:** Used to develop and disseminate essential workforce and labor market information, including employment trends, local labor market trends and other data.

State Funding

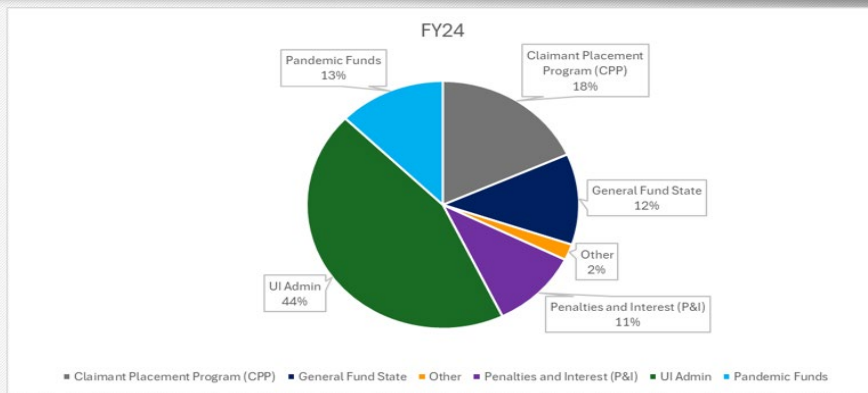


Two State Funding Sources

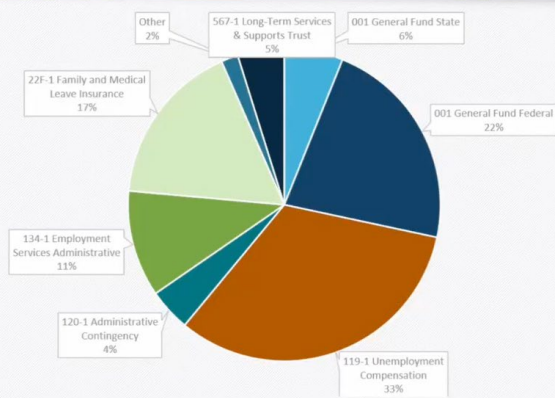
- Claimant Placement Program (CPP):** Funding from the Employment Services Administrative Account (Fund 134). CPP receives its revenue from an employer tax of 0.02% of taxable wages (for most classes of employers). This funding source was established in 1985 to augment federal funds to support employment programs. These funds have been increasingly necessary to provide basic employment program activities.
- Penalties and Interest (P&I):** P&I receives revenues from penalties and interest employers pay for late or incorrect unemployment taxes. P&I revenue also comes from interest paid by UI recipients who must repay benefits to which they were not entitled.

Dan paused here to provide an opportunity for questions. Upon hearing none, he continued presenting on the following slides.

FY 24 UI Program Fund Sources



FY 24 ESD Total Appropriation



Total FY 24 appropriation: \$482M

Total 23-25 appropriation: \$946M

No questions were raised at this point, and Dan continued to the following slides.

UI Administration

Pre-Post Pandemic Customer Experience Changes

Metric	2019	2023	% change
Average UI claims staff	245	223	- 9%
Number of continuing UI claims	1,246,106	1,289,118	+ 3%
Incoming call volume	565,340	1,114,982	+ 97%
Identity issues set	5,295	105,073	+ 1,884%

UI Administration

Service Delivery Challenges

Consumer behavior has changed:

- 25% of customers apply for benefits over the phone instead of using the online services
- 48% of claims are being accessed by a mobile device, but the site is not mobile-friendly

Historical staffing model does not meet modern needs:

- During peak season, an additional 135 FTE would have been required to address each unique claimant seeking service by phone

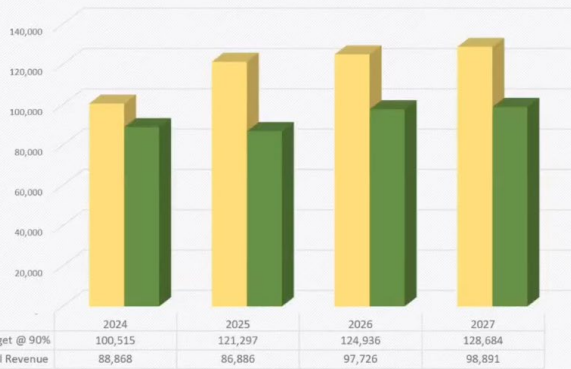
Reduced FTE since pre-pandemic

Increased fraud management complexity:

- Identity fraud and complex financial crimes were minimal pre-pandemic and is now an ongoing body of work for UI agencies across the US

Upon hearing no questions, Dan then handed the floor to Danielle Cruver, Chief Financial Officer, ESD who presented the following slides.

Federal UI Admin funding shortfall



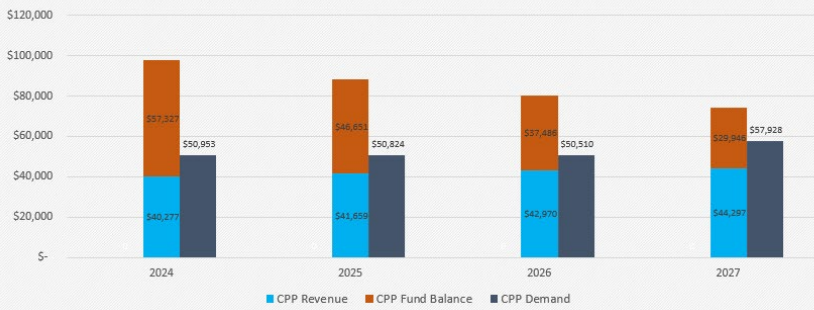
Federal UI Admin covers only ~70% of the UI program.

State resources are required to fund the gap from this federal shortfall, with normal growth and no policy increase.

Annual UI shortfall is ~\$30M each year, assuming a 90% expenditure rate

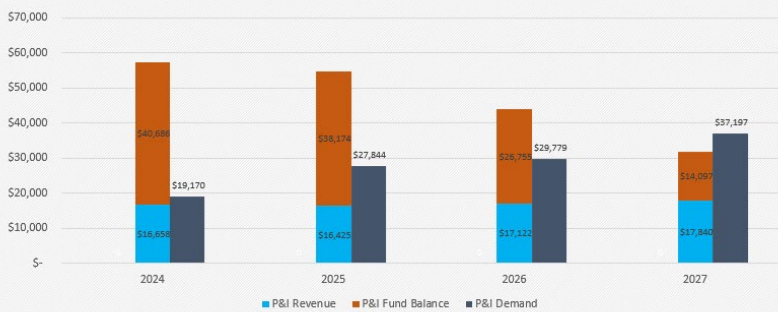
CPP Need, Revenue & Fund Balance

Rounded to 1000

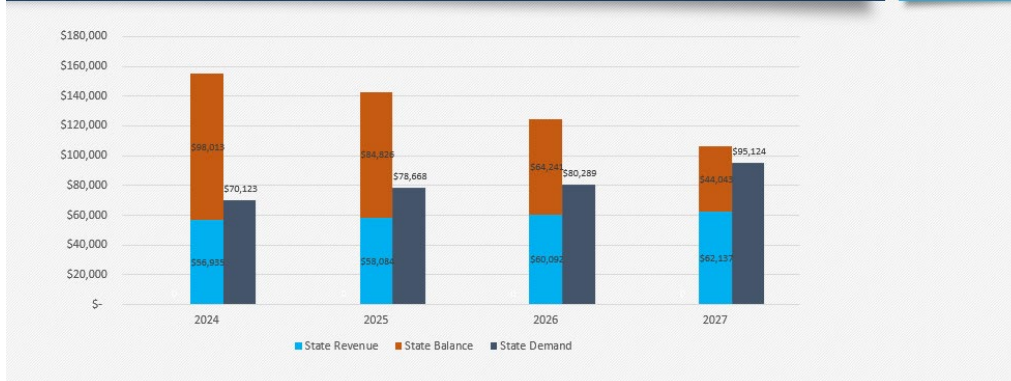


P&I Need, Revenue & Fund Balance

Rounded to 1000



Total State Need, Revenue & Fund Balance Rounded to 1000



Bob Battles asked “do you see that shortfall as a long-term problem that’s going to need a long-term solution, or is there something that has happened that’s created this increase that we’re going to see back off at some point? ... Do you anticipate that that this is going to be a problem that we’re racing and trying to catch up on? Or is this something that’s going to go away after we get a few things taken care of, and if the system balances out?” Dan answered generally that the money the Federal Government is giving to states has not kept up with state needs over many years. Dan stated “the bottom line here is for us to continue operating with the resources that we have, or for us to acquire more resources to better meet the needs of our employer and worker customers. Ultimately funding would have to come from somewhere, whether something changes at the Federal level or at the state level, where a sort of do nothing approach other than increase our authority to use CPP and P&I gets us to where you see we are in 2027, or otherwise we reduce or increase and better meet the needs of the customers.”

Brenda Wiest summarized for clarification, stating “Federal dollars don’t keep up, behaviors have changed, fraud has increased, normal cycles allow you to lay off people when things are not busy, but because the behaviors have changed and the calls have increased, you can’t really lay people off, because then you can’t deliver, and there’s just the regular cost of doing business. Is that right?” Danielle answered that yes, this is correct. Brenda then asked do the wages for ESD staff come out of general government funds? Danielle answered that those are being bargained right now, and that they are added to the governor’s budget in December, adding that the federal government does not cover the cost for those personnel increases, and the department doesn’t get any general fund state or any state funding to offset those personnel costs. They are just absorbed by the department. Danielle clarified further that the labor division at the office of financial management bargains for the entire state, so ESD employees are covered by the same CBAs, which means ESD still will have to pay those salaries, the personnel costs are just taken off the top, and then the department has less to resource a peak season, for example, because it costs more for one FTE than it did last year.

Danielle also stated “The projections that I’m reflecting don’t assume any additional decision package requests, so additional demands against CPP or P&I, and every legislative session any of our fiscal notes are assumed that we cover the resources ourselves. We’re not allowed to ask for general fund state if there is an impact related to legislation, so those amounts are also taken from the state resources.”

Dan continued to the next slide, outlining budget next steps.

Next Steps

July UIAC Meeting

- Decision Package Presentation/Discussion
- Continued Revenue discussion

Rulemaking Update

Dan then handed the meeting over to Stephanie Frazee, Legislation and Rules Coordinator, ESD to provide a rulemaking update using the following slides.

Rulemaking

- **Cross-Program Payment Allocation** – Hearing took place on June 25 at 9:00 AM.
- **Expanded Voluntary Quits (HB 1106)** – Draft rules incorporating quitting due to inaccessible care for a child or vulnerable adult and defining a split shift were shared. No comments were received. Hearing will be on July 11 at 9:00.
- **Failure to Respond** – Working on update to WAC 192-140-035 to address both disqualification and ineligibility for failure to respond. Hearing will be on August 15 at 10:00 AM.


Rulemaking

- **Rescinding Withdrawal of Appeal** – Working on a process and standard of review for situations where a claimant or employer withdraws an appeal and later wishes to request to reinstate the appeal. CR 101 has been filed, published, and shared via GovDelivery. Comments are due June 29.
- **Relief of Benefit Charges** – Updating our rule to mirror the statutory language. CR 101 has been filed, published on our website, and shared via GovDelivery. Comments are due on July 24.
- **Transportation Network Companies (HB 1570)** – Drafted rules concerning relief of benefit charges for part-time workers and potential other rules needed to implement bill. These have been published on our website and will be shared via GovDelivery within the next week.

No questions were raised.



Legislative Implementation Items

Dan turned the meeting over to Stephanie Sams, UICS Policy & Legislative Implementation Manager, ESD who presented information on voluntary quits and apprenticeship materials using the following slides.



**Legislative Implementation items:
Voluntary Quits**

- 2023 Legislation, staggered effective dates
 - Large, final effective date is July 7, 2024
- Expanding good cause quits
 - Added request in change of schedule as way to preserve employment
 - Removed word 'immediate' from family member for death, illness, disability – September 3, 2023
 - Involuntary shift changes – July 7, 2024
 - Relocating to follow minor child – July 7, 2024
 - Inaccessible care (costs socialized) – July 7, 2024 – July 8, 2029 (Report due Nov 2028)

**Legislative Implementation items:
Apprenticeship Materials**

\$100,000 of the unemployment compensation administration account – federal appropriation is provided solely for the department to develop and deploy training on filing claims and navigating the unemployment system for apprentices and apprentice advocate groups

- U.S. DOL funded Tiger Team projects
 - Online "How-To" videos

Stephanie then introduced the next slide and gave the floor to Paul Rostad, Data Consultant, ESD to provide further information on the Standard Occupational Code (SOC) Project using the following slide.

Legislative Implementation items: Standard Occupational Code (SOC) Project

- 2020 legislation, went into effect in 2021
- Standard occupational classification (SOC) or job title
- Delayed enforcement
- Webinars
- New Employer Orientation
- ESD employee training
- Extensive Outreach

Upon hearing no questions about the project, Stephanie then turned the floor over to Joy Adams, Director of Employment System Policy and Integrity, ESD who presented information on the undocumented workers workgroup using the following slide.

Sybill Hyppolite also left the meeting at this time.

Legislative Implementation items: Undocumented workers workgroup

- 2024 Budget Proviso
- Continue exploring funding mechanisms
- Workgroup convened and meeting through summer
- Report due to Legislature November 2024

Josh Dye, Legislative Affairs Manager, ESD then presented the following slide and reminded committee members to please provide any comments on the MWBA report to the department by the end of business, Monday, July 1.

Public Comments

Dan reminded meeting participants that if they would like their comments captured in the meeting minutes to please email them to camille.galeno@esd.wa.gov.

No public comments were made.

Adjourned

Dan thanked everyone for joining and adjourned the meeting.

Action Items

None

Next meeting

July 24th, 2024, from 10:00am to 12:00 p.m. via Zoom.

Addendum I



Agenda

Unemployment Insurance Advisory Committee (UIAC)

Wednesday, June 26, 2024 | 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, Director, Unemployment Insurance Customer Support, Employment Security Department (ESD) <ul style="list-style-type: none">o Agenda overview
10:05 am	Approval of May 15, 2024, meeting minutes
10:10 am	Approve schedule for remainder of 2024 – JR Richards
10:15 am	OAH Appeals update & introduction of new Chief ALJ, RaShelle Davis - Brendon Tukey
10:25 am	Updated taxable wage base (effective July 1) - Jeff Robinson
10:30 am	Budget Overview – Dan Zeitlin, Danielle Cruver and Eve Sheng
10:50 am	Rulemaking Update - Stephanie Frazee
10:55 am	Legislative Implementation items: <ul style="list-style-type: none">• Voluntary Quits- Stephanie Sams• Apprenticeship Materials - Stephanie Sams• SOC Project - Stephanie Sams and Paul Rostad• Undocumented workers workgroup - Josh Dye• MWBA reminder –Josh Dye
11:25 am	Public Comment
11:30 am	Adjourn

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

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Addendum II



Unemployment Insurance Advisory Committee

July 2024 – December 2024 Meeting Dates

Date	Location	Host	Notes
July 24, 2024 10:00 AM – 12:00 PM	Zoom	ESD	Recorded meeting
Aug 7, 2024 1:00 PM – 3:00 PM	Zoom	ESD	Recorded meeting
Sept 4, 2024 1:00 PM – 3:00 PM	Zoom	ESD	Recorded meeting
Oct 30, 2024 10:00 AM – 12:00 PM	Zoom	ESD	Recorded meeting
Dec 11, 2024 1:00 PM – 3:00 PM	Zoom	ESD	Recorded meeting

NOTE: Hosts may have the opportunity to present to the committee and bring invited guests as part of our meeting agenda.

Per vote of UI Advisory Committee members, meetings are being recorded as of 08/03/2020 meeting.

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