UNEMPLOYMENT INSURANCE ADVISORY COUNCIL MEETING
Thursday, May 19, 2011 – 9:30 A.M.
Department of Workforce Development
Room D203
201 East Washington Avenue
Madison, Wisconsin

Individuals Present:

Management: James Buchen, Susan Haine, Dan Petersen and Earl Gustafson

Labor: Dennis Penkalski and Anthony Rainey

Chair: Dan LaRocque

Department Staff: Craig Barkelar, Andrea Reid, William Witter, Robert Junceau, David Lange, Mike Myszewski, Georgia Maxwell, Dennis Spurlin, Tom McHugh, Pam James, Troy Sterr, Timara Budack, Lutfi Shahrani, Amy Banicki, Gretchen Wendt, Emily Savard, Jason Schunk, Sandra Conner, Angela Witt and Robin Gallagher

Others Present: Vince Williams, Monica Vomastic, Landon Vomastic, Rebecca Hogan, Victor Forberger, John Gust, Samantha Costanzo, Bob Andersen and Mindy Walker.

MINUTES

1. Opening remarks - Mr. LaRocque calls the meeting to order at 9:57 a.m. and introduces the Unemployment Insurance Division Administrator Craig D. Barkelar. Mr. Barkelar indicates he has had an opportunity to meet several Council members and is looking forward to talking with each member today after the meeting.

2. March 17, 2011 Minutes - Deferred.

3. Reserve Fund Financial Statements - Mr. McHugh referring to the chart labeled UI Treasurer's Report Balance Sheet. Benefit overpayment receivables (number "1") balance is slightly more than $101 million. The prior year it was $66, 075,043. On the second page, under DWD UI Receivables, of the total $100,304,318, $65.8 million is due to fraud, $34.4 million is non fraud. Fraud receivables increased 69% at this time over the prior year and non fraud increased 33%. Ms. Haine asks if this increase is the result of increased volume. Mr. McHugh explains that the department is paying out a lot of money but it has been a long time since fraud receivables have reached $100 million. Mr. Penkalski points out that this time benefits include federal extension of benefits so more money is being paid out and asks what actions are being taken to recover the overpayments. Mr. McHugh explains that the department intercepts future unemployment checks to recover the amounts owed by collecting a forfeiture penalty or issuing warrants and liens on federal and state tax returns. Department attorneys also work with collections to do warrants for priority liens and levies. In response to a question from Ms. Haine, Mr. McHugh indicates, garnishment is for the whole amount unless limited by statute and the department will certify the total amount of the debt for state and federal tax intercepts. During the 2001 recession, the overpayment receivables peaked at $43 million so there has been a significant increase this recession. Ms. Haine asks whether fraud occurrences are greater now than in 2001. Ms. Reid indicates that information is available in the fraud report presented at the February meeting.

Mr. McHugh explains that Liabilities (number "2") for the trust fund-federal advance are shown at $1.6 billion. However, the loan balance as of yesterday was $1.2 billion. The reserve fund balancing account (number 3) is at a negative $1.2 billion.

On the second page, under Tax Revenue, YTD April 30, 2011 versus 2010 (Cash Statement) shows that money received the last quarter is up significantly from the prior year. 2011 year to date receipts is $658,795,025. Typically the first four months we receive 58% of our receipts for the calendar year. We estimate our revenues to be over one billion dollars for 2011. Gross wages are up 6.3% from last year, but if you compare 1st quarter gross wages for 2008 and 2011, gross wages are down -5.7%. Taxable payroll is up a little, 0.4% for that same period. Mr. Buchen asks about the calculation and whether 2008 was the highest it ever was? Mr. McHugh does not know.

In a response from a question by Ms. Haine, Mr. McHugh points out that the recession ran from December of 2007 through June of 2009.

Mr. McHugh explains that page 2, numbers 6 through 10 show we borrowed (number 6) $472 million in 2011 year to date, and paid back (number 10) $191 million this year. Also, last year we were not paying interest on the loan amount. This year we are. So, we are sweeping the account daily to repay loans. If we look at the loan balance, today we owe 1.2 billion.

We receive our biggest receipts in the first quarter. Tax receipts have been applied to the loan balance and we continue to borrow. As the account is swept each day our balance is zero. All excess funds have been applied to the loan. Interest is calculated on each days loan balance. By sweeping the account, we have minimized the interest impact. Mr. Buchen asks, what is the estimate on how the year-end balance will look if things keep going the way they are going? Mr. McHugh explains the 2011 year-end loan balance was projected in January to be $1.6 billion, but the department current rough estimate is $1.4 billion. Mr. Buchen asks if we are taking in more money than we are paying out. Mr. McHugh explains it is about the same, so we are breaking even.

On page 2, number 7, disbursements, the charges to taxable employers are down. Nos. 8 and 9, federal extended programs, we can see federal EUC is at $303,248,631 and extended benefits (EB) is at $41,082,477. Last year EUC was at $471,386,450 and EB was $29,582,618. As claimants process through the benefit extensions, they leave EUC when they enter EB. Mr. Penkalski asks whether there is any discussion in the federal government about the interest being forgiven. Mr. LaRocque replies there are, one by the President to forego interest charges for 2011 and 2012 and a proposal in the House of Representatives by Michigan Congressman David Camp (Republican) to pay the interest with federal funds.

Mr. McHugh reported that first quarter deferral is up from last year; 681 employers deferred $9.3 million. This year 1,068 employers deferred $15.1 million. The total unemployment rate is 8.1%. Last year at this time it was 10.1%. And, through March 2011, we have added 43,000 jobs

4. Correspondence - New Franken Fire Department - Mr.LaRocque explains the attorney for the New Franken Fire Department (NFFD) could not make it to today's meeting. The issues in the NFFD's correspondence concern the department's interpretation of the statute. The issue may not necessitate a law change. In recent years, the Council has considered legislative revisions at the request of the volunteer fire fighter community and provided them with some relief by legislative changes from the reduction of benefits when they perform services for the fire companies.

Even though firefighters, EMTs and first responders perform services as volunteers, they receive compensation for that work. That compensation would result in benefit reduction in the weeks in which the work was performed were it not for the law change the Council supported. The issue now is about how the department interprets that provision. One issue NFFD raises relates to services performed, for example, for bookkeeping for the fire company or working as fire chief. The statute refers only to amounts earned for services "as a volunteer firefighter" or EMT or first responder.

Mr. Penkalski, asks how we treat other units, like an alderman. Mr. LaRocque explains that those wages are used to reduce benefit payments. The only exception, he explains, is for firefighters, EMT's and first responders. Mr. Gustafson asks whether other states are having similar problems. Mr. LaRocque indicates he is not aware of any other states having similar problems. Ms. Haine says she doesn't see this as a huge monetary issue for the department. The department has conceded some parts of its manual may not be quite right. The firefighters have brought the issue to the Council and written to legislators, so it is necessary to try and figure out if they are right and, if possible, come to a resolution about how to interpret the law without unnecessary time spent by the Council. The department will report back to the Council.

5. Correspondence - Landmark Staffing Resources, Inc. - Mr. LaRocque introduces Monica Vomastic. President and CEO of Landmark Staffing Resources, Inc. (Note: At 3:00 hours, 29 seconds Ms. Vomastic began her presentation during which the recorder stopped working at 3:08 hours and 38 seconds. During the recorded portion of her remarks, Ms. Vomastic read from printed remarks which are attached to the minutes for the Council member's information and reference.). Once the recording was resumed Ms. Vomastic explained that SUTA taxes realized are booked in the month incurred and not amortized over the year, which has a financial impact of raising expenses on all Wisconsin businesses and lowering first quarter earnings. This has a negative impact on hiring at the start of the year for most businesses. She further explained that few companies are on a cash basis, so even with the present deferral plan; it doesn't offset the tax burden incurred as a result of booking the majority of the SUTA expense in the first quarter. A lower rate and higher wage base would spread the SUTA expense across several quarters and have less of an impact on first quarter earnings which would allow for more job creation at the start of the year. Ms. Vomastic added that a lower maximum rate would relieve some of the hardship felt by Wisconsin companies paying the higher rates. Mr. Buchen points out that a change in the tax rates, that benefits a particular industry has to be paid for by other employers.

We are trying to figure out how we are going to pay off the debt. Ms. Haine suggests the Council talk about the issues raised by Ms. Vomastic in caucus after having time to digest what she has presented. Ms. Haine asks that the concerns presented be put on the list for discussion. Mr. Gustafson points out that the business model itself can be the reason for the problem. Ms.Vomastic explains that as volume in staffing increases so does turnover and given higher tax rates the cost of hiring. By dropping the tax rate, you encourage job growth. Mr. Petersen mentions the problem in construction industry where contractors are accepting work at a loss just to get the work. It doesn't make any sense, when you accept more work, your losses increase as well, unless you learn to raise your price. Mr Peterson explained that they had 700 employees before the recession, and about 200 now. They are hoping to hire up to 500 and that will affect their payment requirements. Effectively, it can be one way or the other, all in the first quarter or spread out. Other companies and businesses that have steady employment through the course of the year they get it over with in the first quarter and defer a portion of it for the rest of the year and I'm not sure that they would be happy with increasing the base wage and decreasing the rate. That's not necessarily going to work out for everyone. The deferral helps now to some extent. Ms. Vomastic explains the burden of expense resulting from the deferral is heavily allocated to the first quarter and perhaps looking at a different model might help.

6 and 7. Governor's April 25 Letter Regarding Benefit Waiting Period and Triggers for Extended Benefits – Mr. LaRocque indicates he received a letter from the Governor which deals with items 6 and 7 on the Agenda. The letter is self explanatory. In response to Ms. Haine's question, Mr. LaRocque clarifies that in Wisconsin it is 13 additional weeks of federal extended benefits that is at issue. In other states with higher unemployment, it can be up to 20 weeks. Ms. Haine indicates her understanding of the letter is that the Governor's position is that extending benefits for an additional 13 weeks does not really create jobs or encourage industry to locate in Wisconsin. Mr. Buchen indicates this is familiar territory and the extension of benefits is a judgment call as to whether this is good policy at this point, with jobs being created and jobs going begging because of people not taking work because they are on benefits. It's anecdotal in such away that we don't necessarily need the change but in a broad sense it may be time for letting these things go, unless you are for a one week waiting period.

Mr. Penkalski indicates there are advantages to the extension; if we don't pass it we are taking 50 million dollars out of the economy.

Mr. Buchen points out the waiting period results in an average reduction in charges to taxable employers of $45.2 million. Ms. Haine says the issue is at the lower wage level. Mr. Buchen says benefits paid sometimes exceed wages that a claimant could earn and asks for a summary of how the benefit week is calculated. Mr. LaRocque cites the last paragraph of the letter to Ms. Vomastic dated May 17, 2011 as a hypothetical example. An administrative assistant earning $12 per hour would not receive the maximum benefit rate, or $363 per week, but during a base period would qualify for a maximum of $249 per week (4% of high quarter wages of $6,240). Mr. Shahrani explains how the base period is determined and the benefit amount is calculated and what is considered suitable work.

Mr. Shahrani also explains that if there is a bona fide offer of suitable work, even at a lower wage an individual receiving unemployment benefits is required to accept an offer of work or benefits are suspended. If you get a lower paying job or work part time you may be eligible for partial benefits. So, it pays to work. Working establishes wage credits for benefit purposes and helps with job searches as a reference.

Ms. Haine points out that the hypothetical results in a wage for 40 hours of work per week of $6.23 per hour. In Wisconsin, we pay higher wages for manufacturing jobs and the work offered to the unemployed frequently is for a lower wage, so there are situations where a claimant does not return to work because the wage is insufficient. Mr. LaRocque asks if there is any more discussion of items 6 or 7. We don’t have a quorum; we will put it back on the agenda for next months meeting.

Mr. LaRocque points out the summary of the extended benefits trigger. The summary was revised to provide that the trigger would end either at the end of the calendar year or when the federal funding for the trigger ends or is spent. Other states have enacted the trigger with such an open end ending date. That was added to the summary for the Council’s consideration and would be a possible choice to be considered if the Council decided to extend benefits.

8. Other Correspondence – Mr. LaRocque points out a letter dated April 12, 2011 to Mr. James L. Taylor of Taylor Made Floors, Inc. There are no questions.

Meeting Schedule for June – After reviewing dates for June, it is agreed to meet on either June 17, 2011 or June 23, 2011. Mr. LaRocque will let the Council members know when we will meet.

Motion to Adjourn – Motion (Petersen), second (Penkalski) to adjourn, by voice vote, 6 ayes, 0 noes.