UNEMPLOYMENT INSURANCE ADVISORY COUNCIL MEETING
Thursday, March 17, 2011 – 9:30 A.M.
Department of Workforce Development
Room D203
201 East Washington Avenue
Madison, Wisconsin

Individuals Present:

Management: Ed Lump, Dan Petersen, Susan Haine and Earl Gustafson

Labor: Dennis Penkalski, Sally Feistel and Anthony Rainey

Chair: Dan LaRocque

Department Staff: Manny Perez, Andrea Reid, Verlynn Schmalle, William Witter, Tom McHugh, Pam James, Ramon Natera, Troy Sterr, Timara Budack, Amy Banicki, Emily Savard, Ben Peirce and Robin Gallagher.

Others Present: Hal Bergan, Jim Koeberl, John Metcalf, Victor Forberger, Bob Andersen, Mindy Walker and Dee Pettack.

9:35 a.m.

MINUTES

1. **Opening remarks -** Mr. LaRocque calls the meeting to order at 9:35 a.m.

2. **February 17, 2011 Minutes -** Motion (Lump), second (Feistel) to approve minutes of February 17, 2011, approved by voice vote, ayes 7 no 0.

8. **Correspondence –** Mr. LaRocque reports on correspondence. As a result of the Council's motion last meeting, in the packet are copies of all emails from employees and a memo summarizing those emails as requested. Also, included with that is a sample email response that was sent to each person that sent us an email. Susan Haine asks where she should direct a person with questions about a claim who has had trouble getting through and requests phone numbers she can refer a potential claimant to be provided to her after the meeting.

3. **Reserve Fund Financial Statements -** Mr. McHugh referring to the chart labeled Unemployment Rates by State – Not Seasonally Adjusted reports Wisconsin's unemployment rate is 15th lowest in the country as of January 2011. Minnesota is slightly lower; Ohio, Illinois and Michigan are higher. The second page (Unemployment Trust Fund Loans) shows Wisconsin outstanding loans, at $1.5 billion which is the 11th highest loan balance in the country. Other states in our region were quite high including Illinois at $2.7 billion, Indiana and Ohio. Minnesota was 16th. The third page shows benefits paid. Mr. McHugh explains that we looked at receipts and disbursements at the last meeting. This page shows for each week how much UI is paid out of the trust fund (yellow column). So far this year we paid out $343 million to date in regular UI. If you

look at the yellow column to the right you see we paid $457 million in 2010. This represents about a 25% decline in amounts paid. The first green column at the left shows Federal payments of $261 million in 2011 to date while the green column to the right shows $445 million paid for the same time period in 2010. Federal benefits have declined 41% from at this point last year. In response to a question from Mr. Petersen, Mr. McHugh explains that any tax money that comes in we pay down the loan and any money going out we are borrowing daily. Mr. Gustafson asks of the federal paid (green column) does that affect the employer status and tax rates. Mr. McHugh indicates no, because it is 100% reimbursed and it's not factored into the trust fund balance.

The fourth page (Reported Payroll Tax Accounts No Estimates) shows all wages reported by year. This allows us to see how gross payrolls are changing from 2008 through 2010. In 2009 there was a big drop in gross payroll, (-7.2%), but in 2010 gross payroll improved 1.7% but still remained negative when compared to 2008 (-5.2%). On the right, the sum of taxable payroll increased 2.4% from 2008 to 2010.

Mr. Gustafson asks whether it would be fair to assume that gross wage increase would include wage increases received and that things may be a little worse than shown here. Mr. McHugh indicates that is a possibility.

Mr. Lump asks whether the increase in the wage base is a bigger increase. Mr. McHugh says the small increase in taxable payroll is in line with and a result of the recession.

The fifth page is the Department of Revenue Economic Outlook for winter 2011 and it is more optimistic than earlier reports (numbers in red). For 2011 they project increases as shown. The red numbers show what it was 3 months ago, yellow show current numbers.

Mr. Gustafson asks about the manufacturing percentage change. Mr. McHugh explains that forecast is for a rapid increase in jobs through 2012 followed by slower job growth in future years. On page 6, Wages and Salaries and GDP are shown. Mr. Gustafson points out the 7.1% increase in personal dividend income this year.

The seventh page is a Department of Treasury news release about the Treasury Offset Program. Page 8, 9, 10, 11 and 12 are the financials which were covered at the February 17, 2011 meeting. There were no questions.

4. Reserve Fund Solvency – Mr. McHugh says there have been inquiries about the special assessment for interest. The letter, labeled Draft of Technical Advice Prepared by the Department for Consideration by the Advisory Council is briefly described. Ms. James indicates it will be mailed out. Ms. James indicates the department has $48 million that is due on the assessment on September 30.

Mr. McHugh indicates 0.25% in the fourth paragraph of the letter is the department's best estimate of the assessment rate for contribution employers. The estimate for employers that elect reimbursement financing is 0.15%.

Mr. Gustafson asks whether we decided whether the rate should be progressive or flat. Mr. McHugh indicates we discussed it and it was presented to the Council last time. Mr.LaRocque points out that such a change would require a legislative change and there has been no action by the Council to change to statute on this point.

In response to a question by Mr. Lump about the amendment to eliminate the interest assessment for employers that elect reimbursement financing, Ms. James indicates the amendment would shift about $11 million of the $60 million assessed from 2,377 reimbursable employers to taxable employers. Mr. LaRocque points out that the green page labeled Amend Employer Assessment for Interest Payment explains the amendment. Mr. LaRocque explains that absent any action by the Council the department will send the letter.

Ms. Haine asks what is “taxable payroll.” Ms. James explains that refers to taxable payroll for unemployment purposes. In response to Ms. Haine’s question, Mr. McHugh further explains that the taxable payroll is based on quarterly reports filed by the employer. The assessment is based on the unemployment taxable payroll for 2010. Ms. Haine suggests that be explained. In response to Mr. Petersen’s question concerning how employer’s prior experience contributes to the rate, Mr. LaRocque points out that the second paragraph of the green sheet (Amend Employer Assessment for Interest Payment), relating to replacing the flat rate with a progressive rate schedule. The amendment which had 4 main points: Item 1 – Eliminate assessment of reimbursable employers, Item 2 – Replace flat rate (0.25% on taxable payroll) with progressive rate schedule, Item 3 – Repeal threshold for assessment of $25,000 payroll amount; replace with a minimum assessment bill of $10, and Item 4 – create an Unemployment Special Assessment Interest account separate from Interest and Penalties account.

Mr. Lump points out that it will take a separate piece of legislation to pass such an amendment, separate from a budget proposal. Mr. Lump asks whether we have a schedule that shows in dollars what the proposal to experience rate the interest payments would cost. Mr. LaRocque says item 2 of the Amend Employer Assessment for Interest Payment is one idea. Ms. James explains that the amendment has a schedule of tax rates shared at the last meeting, including a suggested range of rates from 0.05% to 0.50%.

Mr. Gustafson indicates he has members throughout the range, some who have been able to avoid layoffs, and others who are paying at a high rate. Whether it should be flat or not is the issue. Those with high rates prefer the flat rate. Those lower the progressive rate. Mr. Gustafson suggests the rate should be progressive to some extent, 0.50% is too high, but something at a lower rate would be better.

Mr. Penkalski asks about whether reimbursable financing employers are included in item 2 of the amendment estimates. Mr. McHugh indicates they are not and explains reimbursable employers not included because they are not experience rated.

Mr. Lump says he thinks the amendment may be useful to do, but thinks it is difficult to vote for a proposal that does not apply to reimbursable or not-for-profit employers. Mr. Lump points out there may be difficulty passing the bill as well and suggests the department should “stay the course.” Ms. Haine says keep it simple, use a flat assessment. Mr. Gustafson says reimbursable employers should be included and explains the tax should be flat but still reflect experience.

Ms. James presents the three different funding options addressing Reserve Fund Solvency. Option one, let the existing system take care of it where employers will have a reduction in federal FUTA credits starting in 2011 (See, Existing Tax System FUTA Credit Reduction only). Option two, Schedule AA, a proposal by the Council asking what would happen if we raised an additional $300 million taxes each year. (See, Baseline Schedule Impacts). Option three is an array method. (See, Baseline Array Method). The highlighted portion shows a combined tax rate, including taxes, interest payments and the FUTA credit reduction as a percentage of taxable payrolls.

For the first option, in 2014 we would still have a negative closing balance of $547 million and an overall tax rate including an interest rate and FUTA credit reduction of 4.5%. In Option two, Schedule AA, we raise $300 million annually, starting in 2012, and would have a closing balance of $108 million and an overall tax rate of 5.0%. The 4-year total interest payment under the first option is $203 million while under Schedule AA the total interest payments are $148million. In option three the array method has a closing balance of $634 million and an overall tax rate (highlighted) of 5.4%. There would be a FUTA credit reduction of $49 million and a 4-year total interest payments of $127 million and because we are turning positive we would have interest earnings. The second page attached shows the Schedule AA aimed at raising $300 million additional dollars and shows the basic rate change compared to Schedule A.

Ms. James presents an Overview of the Array Tax Method. This is an example of what other states have done and what it might look like for Wisconsin. The strengths of this method are that it allows more flexibility with tax schedules, is more responsive to economic changes and experience rating is enhanced, as explained in the handout. Mr. LaRocque indicates the Array Tax Method strengthens the experience rating process while still retaining the noncharge concept, by progressive taxation to recover noncharges and fund the balancing account.

Ms. James indicates that under the array model, an employers' total rate is tied to their experience, including tax on social charges. The array method establishes a greater experience distinction between employers unlike the existing system and there are even increases in tax rates. The array method establishes a tax target based on the 5 year average of benefits x (multiplied by) a benefit adjustment factor. Other states, Nebraska being one, have had dramatic tax increases in one year as their tax target is set equal to the prior years benefits.

The array method can spread the impact of changes in benefits over a period, say 5 years, and also look at the health of the trust fund in establishing the tax target. For, example, if the trust fund is largely positive the benefit adjustment factor would be less than 1 while if the trust fund is negative, the benefit adjustment factor would be greater than 1. The next step is to calculate what average overall tax rate. Then, finally, the array method ranks employers in 24 different brackets, with employers with the highest reserve ratios getting arrayed in the lowest tax rate brackets. Using our specific numbers on page 4, Step 1a, looking at 2012, the assumption is that if we implement this, the 5-year average is $1.259 billion.

The next step is to determine the benefit adjustment factor. The Reserve Fund ratio is projected at negative 1.98%. So, a benefit adjustment factor of 1.20 would be applied resulting in a target tax rate of $1.511 billion. Calculated tax rate given taxable wages of 26,781 for a tax rate of 5.65%. Page 5 shows the schedules. The bottom of the schedule shows the overall average tax rate of each schedule. So that the tax schedule that would be in effect for 2012 would be Schedule 8, at 5.83%. Ms. James explains Page 6 compares the existing tax system and the array method. Ms. James explains that looking at the two alternatives, in 2015 the closing balance would be $38 million, while under the array method the balance would be $1.132 billion.

Ms. James indicates that one of the issues discussed at the last meeting was what sort of target should we choose. Ms. James explains that there will be new conditions for states to qualify for cash flow loans (interest free borrowing), based on a new rule by DOL. This rule will be effective starting in 2014, phasing in the requirement of a AHCM = 1 in any of the 5 previous years by 2019, starting with an AHCM of .5 in any of the 5 previous years in 2014 and increasing the requirement by ".1" each year until reaching the AHCM of 1 in 2019. In 2014, if you have an AHCM of .5 in any of the 5 previous years, along with required solvency measures then a state will qualify for cash flow loans. The AHCM is calculated by taking the reserve ratio divided by total payroll and divided by the average high cost rate (the three highest benefit ratios over the past 20 years, specifically 2009, 2002 and 1991 in the example) or an average high cost rate of 1.666. The example shows we would need a reserve balance of $1.4 – 1.5 billion in years 2012 – 2015 to achieve an AHCM = 1. We would need a reserve balance of $735 million in 2013, $903 million and/or $1.1 billion in 2015 to meet the phased in AHCM targets of .5, .6 and .7 in respective years. Using the array methodology, we would meet that requirement in 2015. (Highlighted in green is what our reserve ratio would have to be in each year to meet a high cost rate of 1.00. The salmon is what the reserve balance needs to be to reach 0.5. The closing balances show we don't quite meet the requirement in 2014 but do in 2015.)

The Council had requested an analysis of what would happen if we had a dramatic shift of basic tax to solvency tax. The impact is shown by the Official Forecast Based on WI Dept of Revenue Economic Outlook for 2010 and as Modified for Shift of 36% of Basic Tax to Solvency Tax Beginning in 2012. In conformance with federal experience rating requirements, the amount shifted was limited such that the maximum basic rate was still equal to or greater than the FUTA credit of 5.4%. With a 36% shift from basic tax rates to solvency tax rates starting in 2012, the closing balance of the Reserve Fund is $203 million, compared to a closing balance of $38 million without the shift. The shift generates a $500 million tax increase; however, the FUTA credit is reduced by $343 million. So, we are paying it off in a different way. The net improvement in the Reserve Fund is $165 million.

Mr. McHugh points out that Mr. Buchen had asked at the last meeting for some alternative scenarios including those in which the overall tax rate will not change. See, Forecast for December 2010 the proposed interest waiver in '11 and '12, FUTA moratorium in '11 and '12 and WB increase in 2014, which Ms. James briefly describes. The Alternatives for Strengthening Trust Fund is based on 2009 data but shows the relative impact of a variety of alternatives and is meant as a refresher for the Council. The projections would need to be updated. Mr. McHugh points out that the benefit proposals are at the bottom and the tax proposals at the top. The Draft concerning the Impact of the Waiting Week shows what would happen if it was eliminated. Mr. McHugh points out that 39 states have a one-week waiting period.

Mr.Lump asks about providing incentives to take jobs without losing UI benefits. He asks if there is some way to do this, so that a claimant can make a few bucks. Some states have done this. Is there a way to get somebody to go back to work while receiving unemployment? Mr. LaRocque describes the "Georgia Works" program, which provides on-the-job training where the state pays a stipend and benefits continue during a six- or eight-week time period. Mr. Lump says he understands that proposal, but asks if there is a way to let them supplement their UI benefits with income from a job. Now, he explains, this work is being done for cash and he asks, why not have them participate in and contribute to the system?

Mr. Lump says we need to think outside the box in the sense of not discouraging them from working before their benefits are maximized. Mr. Gustafson asks who gets charged for the benefits. Mr. Lump says charging employers for benefits would not change.

Ms. Feistel says the assumption is that claimants sit home and watch Oprah. There are many workers who can not find work at a comparable wage or that require the skills the worker possesses. Those aged 50 and above have difficulty getting hired and many have exhausted benefits.

Mr. Lump explains that the system discourages employees from accepting work before using up their benefits. Ms. Feistel says there is an analogy to this where contractors have sub pay. Mr. Lump points out that those over 70 can work without a penalty. Mr. Lump thinks employers would look positively on a claimant that wants to work.

Mr. Gustafson thinks it is an idea that should be looked at and asks about the Georgia Works program, which Mr. LaRocque describes further pointing out that the employer pays no wages, must offer a true training program, one that does not trigger wage obligations under the Federal Labor Standards Act, and that Georgia is spending a lot of administrative time qualifying the employers that choose to participate in the program.

Mr. LaRocque indicates that items **5 (Amend Triggers for Extended Benefits, 6 (Amend Treasury Offset to Allow Recovery from IRS of Non-fraud Overpayments) and 7 (Amend Employer Assessment for Interest Payment)** are technical advice on possible amendments. He explains, Extended Benefits triggers (item 5) if not enacted by March 25th will mean that benefits will not be extended 13 additional weeks and will expire on April 16, 2011. Mr. Penkalski asks how many people does this affect. Mr. Peirce indicates we don’t have a firm estimate. Mr. Peirce explains that it will phase out as extended unemployment benefit payments expire. Ms. Reid adds there are approximately 10,000 continuing claims.

Mr. Penkalski says why don’t we go ahead and do this. There is no cost.

Mr. Peirce explains the amendment to the triggers. Mr. Lump asks are there any hooks for the State beyond this and asks what tests we have to meet. Mr. Peirce says we have to amend state law because we do not have the trigger. Mr. LaRocque explains that the trigger if adopted would expire at the end of the calendar year with the expiration of 100% federal funding of EB. Some employers pay EB in any event because they are outside the FUTA tax and that as a result those employers, all of whom are state and local and tribal government employers, will pay EB benefits during the period affected by the law change, estimated to be $1.094 million in the aggregate, referring to Chart 3 (Amend Triggers for Extended Benefits: Summary), which shows from May – December 2011 (estimated) shows the amount is $1,094,986. The estimated total benefits associated with the change to allow these additional 13 weeks of benefits is $89.1 million in payments.

Mr. Peirce explains that the amendment will provide an additional 13 weeks of benefits, bringing the potential total for a claimant to 86 weeks. Without legislative action the maximum number would be 73 weeks.

Mr. Penkalski points out that the Council needs to remember that the money paid out in benefits, millions of dollars, is spent in Wisconsin's economy.

Mr. Gustafson indicates he does not disagree that the money is likely to be used in Wisconsin's economy and not likely to be put in savings. Mr. Gustafson explains that there has been some concern about whether a further extension of benefits helps the economy. He explains that some employers have expressed the view that they are unable to find workers for newly created jobs and concern about whether the extension of benefits to historically unprecedented levels is a reason for the difficulty in attracting workers.

Ms. Feistel offers to refer names of workers that are available.

Mr. Penkalski mentions Mr. Lump's proposal that workers be able to work while receiving benefits and that the money earned could be used to pay for health benefits. To forego legislation would cut 10,000 people off. Mr. Gustafson says he understands the need for the extension from personal experience with friends and employees of the Paper Council.

Motion for Closed Caucus - Motion (Penkalski) for closed caucus pursuant to s.19.85(1)(ee) of the Wisconsin Statutes for purposes of discussing potential changes to Wisconsin statutes and rules governing the unemployment program. Open session will resume if that is necessary, but otherwise the meeting will be deemed adjourned after closed session; motion seconded (Lump) and approved by voice vote, ayes 7, noes 0.

The Council is in closed session.

Open session resumed – 12:45 p.m.

Mr. LaRocque introduces Manuel Perez, Secretary of the Department of Workforce Development for the purpose of addressing the Council. Secretary Perez explains that he wishes to provide the Council with current information on the economy and expected changes for the economy in 2011.

The Secretary distributes Wisconsin January Jobs Data sheet and indicates if you look at the graph, the blue portion is 2010. The white triangle indicates where we started with the total number of nonfarm jobs in 2011. The February 2011 data is not shown here, but it is higher than January.

The hiring cycle starts in March and goes up until its highest point in July and then tapers off and goes down until November and December and then the cycle starts up again. Right now we have 27,000 job postings in the Wisconsin job center. We are looking at a rate of growth of about 1,000 job postings per week. We are in close contact with CEO's, who indicate to us that they are ramping up on hiring. A Manpower survey indicates that Wisconsin employers are expected to exceed the rate of hiring of all the rest of the United States, a rate of 60%, by a rate of hiring of 82%.

Our goal is to meet or exceed the red line for jobs in Wisconsin as shown on the graph. Workers need to be retrained, move up on the wage curve and have a job that has sustainability. In healthcare, for example, there is strong demand and we are working closely with organizations to encourage individuals to transition to a program in that industry. We are also working to help individuals with lifelong learning. There is no reason someone that starts as a as a packer, fork lift driver or bus boy can not become the owner or vice president of the company. But, that requires a commitment to lifelong learning.

This is why I asked to speak to you today. Wisconsin may exceed the actual average rate of hire for the United States, helping individuals earn more money and continue in sustainable employment. Wisconsin is the 5th best state in average Worker's Compensation in the cases in the nation. Wisconsin's Worker's Compensation premiums are the lowest in the Midwest. For Wisconsin to have those numbers is because Wisconsin's workers are working productively and safely.

Mr. Penkalski asks, of the 24,000 job postings you have how many are for minimum wage jobs and how many are for college graduates?

We have looked at selected samples and at specific counties, including Milwaukee County. The range of pay is from $7.00 per hour all the way to $30.00 per hour. We are going to make it our business to see that a person can move up as a function of their desire to work and continue the evolution of our economy. We have to make a decision about where to concentrate the resources of the state. For example, are we going to be the capital of high speed precision manufacturing in the world? That is a decision we have to make as a state. Yesterday, I met with the food manufacturing group. Food safety and production is going to exceed national hiring rates. Individuals have to decide when they return to the workforce at the entry level to commit to lifelong learning. Everything in the economy is changing. We need to help people get into positions. So, I ask you to take all these things into consideration to help get people back into sustainable jobs.

Mr. Penkalski asks whether the Secretary would favor on the job training while receiving unemployment benefits. Mr. Perez says it would be worth exploring whether it is feasible to pay partial benefits to a person who returns to work. For example, take a person who works in a job paying $25 per hour before who upon returning to work is because of the economy now getting paid $12 per hour. I think it would be worthwhile to study and put numbers around to see if it feasible to do. This would help the economy and keep people working.

Ms. Feistel says it is difficult to go back to school to get a job as a certified nursing assistant at $7.00 per hour. Because of the economy, we don't have the money to fund programs to help them through the tough times while they are in school. Mr. Perez says there are things that can be done. Mr. Lump describes his proposal from earlier today, and asks whether there is a way to get individuals back to work. Mr. Perez says the Council should identify proposals and put numbers around each one.

Secretary Perez reiterates the reason for his presentation – that he wants the Council to understand where we are at in the current business cycle and how important it is that the Council not take any action to slow down the progress.

Mr. Rainey asks if the Secretary continues to support manufacturer skills based training programs. Mr. Perez indicates he strongly supports it. My role is to strategically train a workforce to get to a marketing differentiator of economic growth so that the quality of workforce is superior to that of any surrounding state or for that matter, anywhere else. Safety is good, a mindset. You can link workplace safety to wellness. Your workforce is healthier, can work more productively, with energy. If I could mandate it within a company, I would mandate manufacturing certification for entry level employees. Our goal is to have a workforce that is superior to that of any other state.

Mr. Penkalski asks: about apprenticeship, which Wisconsin has supported historically, do we continue to support that? Secretary Perez indicates we continue to support it. It is viewed as a good business decision for Wisconsin to employ a diverse workforce with apprenticeship training. Mr. Penkalski says apprenticeship has historically been underfunded. Secretary Perez explains that the administration is anticipating the federal funds for workforce development boards are going to be drastically reduced. Secretary Perez replies that we need to show the young people in the state that there is a future in manufacturing.

Mr. LaRocque thanks Secretary Perez for taking time to address the UI Advisory Council.

Motion to Adjourn Motion (Yunk), second (Petersen) to adjourn, approved by voice vote, ayes 7 noes 0.