

Approved Minutes of the  
Employment Advisory Council  
Department of Workforce Services, 140 East 300 South, Salt Lake City  
**August 17, 2015 – 2:30 p.m.**

<b>Council Members Present:</b>	John Chindlund	Employer Representative, Prince, Yeates & Geldzahler	
	David Davis	Employer Representative, Utah Retail Merchants Assn.	
	Greg Diven	Employer Representative, OCM, Inc.	
	William Nickell	Employee Representative	
	Dee Rowland	Public Representative	
	Jan Zogmaister	Public Representative	
	Jody McMillan	Public Representative	
	Erin Trenbeath-Murray	Public Representative	
	<b>Council Members Excused:</b>	Matt Minkevitch	Public Representative, Executive Director, the Road Home
Richard Thorn		Employer Representative, Assoc. of General Contractors	
Todd Bingham		Employer Representative, Utah Manufacturers Assn.	
Dale M. Cox		Employee Representative, Utah State AFL-CIO	
Diane Lewis		Employee Representative, Utah Laborer’s Local #295	
Tony Montano		Employee Representative, Utah State AFL-CIO	
Dan Peay		Employee Representative, United Steelworkers, AFL-CIO	
<b>DWS Staff Present:</b>	Casey Cameron	DWS Deputy Director	
	Michelle Beebe	Director, Unemployment Insurance	
	Kathy Bounous	General Counsel, DWS	
	Carrie Mayne	Director, Workforce Research Analysis	
	Mike Miller	Chief, UI Contributions	
	Ken Allen	Field Auditor, UI Contributions	
	Nathan Harrison	Director, Finance	
	Mary Gehman-Smith	Support Staff Supervisor, Minutes	

Agenda Item	Discussion
Welcome and Approval of Minutes	Ms. Cameron called for a motion to approve the Minutes from the January 22, 2015 meeting. <b>Motion:</b> Ms. Rowland motioned to approve the Minutes as written, Ms. Zogmaister seconded the motion. Ms. Trenbeath-Murray abstained from voting as she did not attend the last meeting. The Minutes were approved unanimously.
Council Appointments	Ms. Beebe introduced new members Will Nickell (Employee representative), Jody McMillan (Public representative), and Erin Trenbeath-Murray (Public representative). Mr. Nickell stated he is the Training Director at the Plumber and Pipe Fitters Association. Jody McMillan stated she worked for DWS for 35 years and is now retired. Ms. Trenbeath stated she is the CEO for the Salt Lake Community Action Program (CAP), which runs the Head Start program.
Overview of Unemployment Insurance (UI) Program	<p>Ms. Beebe presented an overview of UI (Attachment A).</p> <ul style="list-style-type: none"> <li>• Federal-State Partnership – The UI program is based on federal law and administered by state employees based on state law. The Federal Government has certain requirements in terms of conformity, provide funds for our Administration and, monitor State performance. State government has flexibility in setting eligibility requirements and benefit levels, and employer liability;</li> <li>• Unemployed Individual Perspective - UI provides temporary assistance while an individual is seeking re-employment commensurate with their previous skills and experience. They file their initial claim, certify their eligibility every week, register for work, and make an active effort to find work while collecting. Their Benefit amount is based on recent work history. In Utah, the maximum weekly benefit is \$496.00. Benefit amounts and duration are set by individual states;</li> <li>• Employer Perspective - By temporarily assisting unemployed workers, employers are able to retain skills and experience. 1 in 10 claimants filing are connected to their employer and expect to go back to that employer in the next 2-3 months. State Financial Impact - employers pay contributions to DWS on a quarterly basis, based on their experience rating. This money is 100% dedicated to paying Unemployment Benefits. Federal Financial Impact - Employers also pay a Federal unemployment tax which is 6% on the first \$7,000.00. By having a State that is compliant with the Federal government and an employer that is compliant with the State, they received a 90% tax credit;</li> <li>• Role of the Employment Advisory Council - DWS looks to this Council for advice on formulating policies, discussing problems and helping with proposed legislation, whether for or against. Having the public perspective, the labor perspective or the employer perspective, this helps us to make sure we are operating in the right context.</li> </ul> <p>Mr. Davis believes there has been a good working relationship between labor, management and employers. He believes the good work this group had done in perpetuating the system corrected itself during the recession. Utah did very well and he believes it is because of the good working relationship we have here. Overall, these meetings are healthy. Mr. Diven is impressed how this Council and DWS survived the meltdown of the economy. He has an office in Las Vegas and things are very different there.</p>
Workforce Innovation and Opportunity Act	Ms. Beebe presented information on the Workforce Innovation and Opportunity Act (WIOA) (Attachment B). WIOA passed in 2014 and went into effect on July 1, 2015.

(WIOA)

### Vision

#### Key Pillars:

- The needs of business and workers drive workforce solutions.
- The workforce system supports strong regional economies.
- One-Stop Employment Centers provide first-rate customer service to jobseekers, workers, and businesses.

Many of these services are already being applied. Unemployment Insurance, Workforce Development Division and Eligibility Services are all under the umbrella of DWS.

### Role of the Core Partners

There are six different core partners: Low-income Adults, Youth, and Dislocated Workers, Adult Education and Literacy, Wagner-Peyser and Vocational Rehabilitation. These partners need to be coordinated and complementary so if dislocated worker funds are paying to send someone to training, that the training is already aligned with the workforce demand, where it is reasonable for them to expect to find a job when they complete that training. The fundamental purpose of WIOA is to make sure that job seekers are acquiring the skills employers need.

Role of the State Workforce Development Board - their job is to come up with a unified plan of all six of the core partners on how we will achieve this integrated and aligned approach. They are guiding how that strategy will be played out.

Role of UI – UI is considered a mandatory, though not core, partner. As such, help with filing for UI is required at every One-Stop across the State.

- Reemployment - Making sure individuals collecting UI are connected to labor exchange services to get back in the job market;
- Meaningful Assistance - Assist individuals in filing a claim. Currently, UI is centralized at Admin North. If an individual goes into a One-Stop in a rural area, they are directed to contact UI via our phone or on-line chat system. DWS operates under the idea that whether an individual contacts us from home or from a One-Stop, we will provide top-rate customer service. The DOL has added in their proposed regulations with WIOA, that individuals accessing DWS services through a One-Stop should be considered for priority of service. DWS has pushed back a bit. Ms. Beebe asked how the Council feels about stratifying a service delivery so if an individual goes into an EC with an unemployment insurance question, they should jump to the front of the line over an individual calling from their phone.

Mr. Davis asked if there are additional services available for an individual who comes into the EC versus an individual who calls or do they receive the same services? Mr. Diven stated those who use the phone system instead of coming in could have mobility, financial or transportation problems. Mr. Diven asked what extra services would be available for those who come in. Ms. Cameron stated they would receive the same type of service; they would just be calling from a phone located at the EC or chatting from a computer located at the EC. The proposed DOL rule says if you come in, you would go to the top of the queue, not necessarily see a person. Ms. Trenbeath-Murray stated some folks may not have a phone or computer because they can't afford them.

Ms. Beebe stated UI is in the process of implementing a new IVR system which has a virtual hold feature which will allow the

	<p>claimant to choose the option to get a call back. Mr. Davis asked if DWS' goal is to get folks into the One-Stops. If that is the goal, give them priority. If it doesn't matter, treat everyone the same. Ms. Beebe stated that service in the One-Stops should be available for all who would benefit, but the goal is not necessarily to direct more individuals to these centers. The current average phone wait time for UI is 5-7 minutes.</p> <ul style="list-style-type: none"> <li>• <u>Information Sharing</u> - Using quarterly wage records to measure progress on program accountability. In the next legislative session, DWS will propose a change to the statute under 35A-4-312(5)(i) from referencing WIA to WIOA.</li> </ul>
National Wage Record Survey	<p>Carrie Mayne presented information on the National Wage Record Survey (Attachment 3). Only five states have participated. Texas and Oregon are two of the states. Ms. Mayne is working directly with Ms. Beebe and will keep this group informed of future results. Mr. Davis would like to know who the other states are.</p>
Follow-up on 2015 Legislation	<p>Ms. Beebe reported the following:</p> <ul style="list-style-type: none"> <li>• A bill was passed to share aggregate information on Worker Misclassification with the DOL, Wage and Hour Division;</li> <li>• Through UI's Field Audit process, an employer who has incorrectly labeled an individual as an independent contractor, when they should be an employee, is identified. Under certain circumstances, that employer's information is shared with the DOL, Wage and Hour Division so they can conduct their own investigation;</li> <li>• The statute went into effect in May. An Administrative Rule was passed clarifying under what circumstances we share that information. The Rule states if an employer has been found to have classified 10 or more individuals as independent contractors and, if the employer fails to contact DWS within three months of that misclassification to try to correct the situation, DWS will share with DOL, Wage and Hour Division. Some concerns raised at the last Legislative session was that this was seen as punitive. This Administrative Rule was a compromise;</li> <li>• Ms. Beebe reported the Memorandum of Understanding (MOU) with the Department of Labor is currently in draft form. It should be available by the next meeting. One of the items added into this MOU was; 1. The DOL is prohibited from re-sharing this information with other entities, and; 2. clarifying that if an employer is not subject to unemployment insurance then we would not have that information to share with them;</li> <li>• Mr. Diven asked for clarification as to when we say 10 or more workers, is this an arbitrary number? Is this 10 or more workers over a period of time? He stated it seems we need a little more clarification regarding 'making payment arrangements or making other reasonable efforts to satisfy their outstanding contributions'. Who decides what is reasonable? Ms. Beebe stated the statute itself indicates aggregate information can be shared with this entity if it is one or more employees. There was a compromise within the Legislative process to try to exclude sharing information on employers that seem to have made an honest mistake. This is the current threshold with which DWS shares information with the Utah Worker Misclassification Enforcement Council. The legislators wanted to ensure there was an MOU in place. The Administrative Rule reflects some of their concerns and the agreements that were reached and a compromise;</li> <li>• Ms. Bounous reported a review process has been negotiated. The results will be reviewed and the data shared. If it is beneficial to the state, the Rule can be amended to reduce that number of employees. Mr. Diven wants to make sure it is crystal clear what this entails. Ms. Beebe added Field Audit typically goes back one year, maybe two. So, the 10 misclassified workers would</li> </ul>

	<p>be what they find over a period of 12 months;</p> <ul style="list-style-type: none"> <li>Based on the Legislative compromise, regarding the idea of reasonableness, right now our expectation is that we will be fairly liberal if an employer has contacted us and have tried to set up payments, then we will not share their information. Michelle Beebe and Mike Miller would make that decision. Ms. Beebe looks forward to continuing that transparency with the Council and keeping you updated on what is being shared and the effects that are happening as a result of that sharing. We will be subject to review and this has a sunset date of 2017.</li> </ul>
Potential Legislation for 2016	<p>Ms. Beebe reported there are three primary items related to unemployment:</p> <ol style="list-style-type: none"> <li>Legislative change on the WIOA, basically changing reference from the Workforce Investment Act of 1998 to the WIOA law;</li> <li>Worker Classification Enforcement Council, created in 2011, sunset in June 2016. Their recommendation is to keep this Council;</li> <li>Last year, DWS came to this Council regarding a modernization project of our benefits system. This project is expected to go through 2018. We are taking the computer case management system for unemployment benefits and upgrading it module by module from a Versata desktop platform to a .net platform. This upgrade will increase accessibility for staff and also increase security. In 2011, Utah was awarded \$20.3M from the DOL for adjusting the base period for unemployment eligibility. That money is currently in the Trust Fund. We asked at the last Legislative session to take \$2M of that and use it to help pay for this modernization upgrade.</li> </ol> <p>The Contribution Rates for 2016 will be run at the end of November. At that time, Ms. Beebe will be able to give a more robust update. Utah has a healthy Trust Fund and one of only 15 states that did not have to borrow from the Federal Government to pay UI benefits during the most recent recession.</p>
Other Department Initiatives	<p>Mr. Davis suggested scheduling Council meetings further in advance. The group agreed to meet quarterly. The next meeting will be held on Wednesday, December 9, 2015 at 2:30 p.m. In 2016, they will be scheduled in April, July, and October.</p>
Adjourn	<p>Mr. Davis motioned to adjourn, Ms. McMillan seconded the motion and the motion was approved unanimously. The meeting adjourned at 3:58 p.m.</p>